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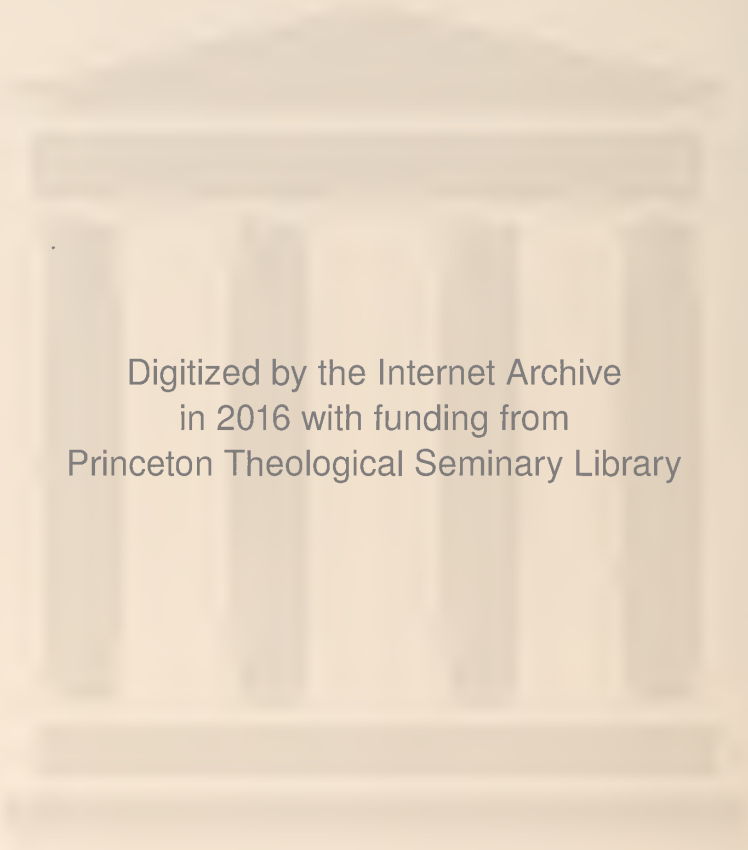

THE ABNEGATION OF SELF-GOVERNMENT.

THE fundamental idea underlying the government of every State of the American Union is that the people rule. Upon this the American people have erected their constitutional structure, and to this their laws and their conduct are supposed to conform. Their constitutions, State and National, tho they may be said to have grown out of their circumstances, were not forced upon them by the circumstances, and simply accepted with little or no volition on their part, as has very commonly been the case with government in other countries; but the controlling principle was adopted deliberately by them, from a conviction that it was exactly suited to their condition, their political traditions, their habits of thought and action, and their needs. They therefore made formal agreement that not only were the people of a country the rightful source and fountain of all legitimate authority in government, but that in the United States it was proper and expedient that they should retain in their own hands this authority, and exercise it. They had by their Declaration of Independence rejected as unfounded the assumption that by divine selection, or otherwise, any one without their consent had been made their rightful master, and they perpetuated in their constitutional system the "self-evident" truth that all men by nature are equal in right and privilege. Conceding the impossibility of all the functions of government being exercised by themselves directly, they created trusts and provided for their being performed by officers, but these officers were to be chosen by themselves in strict subordination to the principle that sovereignty belonged to and was to be retained by the people, and that all governmental powers in the hands of individuals were to be exercised by mere delegation. The underlying principle of their political structure

was, therefore, not a mere invention of convenience to meet a temporary necessity and provide for a crisis in public affairs, like the theory of original contract in England, but through constitutional forms it was given such effective vitality and force that the validity of legislative enactments and of other governmental action could be determined by it. The body that made the laws under the delegated authority must keep within the delegation, or its enactments would be mere idle fulminations, to which no one would owe obedience or need give any attention. Officers of all grades were to have their authority carefully measured out and limited; and this authority the people would not only recall if they saw reason for so doing, but while it continued they would periodically pass judgment upon the official conduct of those exercising it, and displace them if dissatisfied. Even the courts, with power to decide upon and apply the law, were, like all other agencies, to be under the law, and the restraints thrown around them were such as to make them understand and feel at all times their subordination to the sovereign power.

In the government of a State is implied the making of its laws and the establishment of rights thereby. The diversities of circumstances, opinions, aims, desires, interests, and passions on the part of the governed are such as to make this a task of infinite difficulty and nicety; and it requires for its performance not only great ability, long experience, constant and patient thought and reflection, and a willingness to be taught by events, but also a complete subordination of private to public interests, so that at all times that may be done which in the judgment of the ruler the public good demands. It is also implied that the laws made shall be enforced; that there shall be such provision for and adjustment of remedial and restrictive forces as shall give to the rights established effectual protection, and make life, liberty, and property secure. To this end every person concerned in the administration of the laws must be made to perform his duty, so that the laws may not be idle commands, but vital forces. The fact must be recognized that there are elements in society which tend perpetually to disorder and lawlessness, and that to hold these in due subjection perpetual vigilance on the part of the ruler is essential. If he re-

laxes this vigilance for his own ease, convenience, or private interest, he not only fails in duty and becomes deserving of severe censure, but he, in a degree, abdicates his authority in favor of those disorderly elements, who substitute their own will for the law which has, nominally, been made for their control. It is evident, therefore, that rare mental and moral qualities, and great self-renunciation, are required in the ruler of a State, and that he will very imperfectly perform his duty unless the public interest is constantly uppermost in his thoughts and the chief subject of solicitude.

It is, of course, not to be assumed that every member of a political society will be sufficiently enlightened and virtuous to make a wise ruler; but the aggregate wisdom and virtue of the community may be supposed superior to that of any one individual, so that the collected sense of the people respecting their own affairs is likely to be better than that of a single person, however great or eminent, and better deserving of expression in the laws of the State and in their administration. The self-government of a State is not only, therefore, theoretically the best, but it only requires that the sense of the people on public affairs shall be properly collected and given effect, to make it best in reality.

A vague notion is afloat, much acted upon without being expressed, that when the people have exercised the most important act of sovereign authority—the adoption of a Constitution—they are thereafter to manifest their sovereignty only in the elections, when they choose their representatives and other official agents, and pass upon such propositions as may by law be referred to popular vote. The absurdity of any such notion, when applied to the government of a king or other single ruler, would be apparent at a glance, for the responsibility of the government is upon him, not upon his subordinates and agents, and the duty to see that the laws are enforced is a personal duty, of which he cannot effectually relieve himself by any delegation. But it is still more absurd when applied to a popular government, where offices, for the most part, are held for definite terms, and the incumbents are not removable at will by the sovereign, but only at fixed periods. If, during their incumbency, the people are charged with no responsibility in respect

to the performance of official duties, the sovereign power of the State, for all practical purposes, must be considered as lying dormant from one election to another, and what is called the rule of the people can be little more than the privilege of making periodical choice of masters. This is so far from being the theory of American government, that the exact opposite is the fact; for the American Constitutions, State and National, assume that the sovereignty of the people is to be of controlling force at all times and under all circumstances, and they contain numerous provisions for making it so. All officers are subordinates and agents, who are chosen on the implied understanding that they are to represent the popular judgment, and give effect, so far as they may in their official conduct, to the sovereign will in the government. If they fail in this they are chargeable with misconduct either to the State or to some one or more of its citizens, or possibly to both, and it is the business of the sovereign authority to give redress.

Wrongs in government may be chargeable to either official personages or to private citizens. When chargeable to officers, they may be due to ignorance or incompetency, whereby, without intention, public duties fail in performance or are imperfectly or unwisely performed, or they may come from positive and intentional disregard of law and duty. It is not the purpose of the constitution that any such wrong shall be suffered without redress; but it may be well to survey the means of prevention which have been devised by the sovereign power, and the ways in which it is supposed to make its constant presence and superintending authority felt and respected.

The device of delegating to distinct departments of government the legislative, executive, and judicial powers is supposed to be of very high value, as it puts each department in a position where, for the protection of its own jurisdiction, it must aid in limiting to its proper authority each of the others. The checks and restraints which this division of authority establishes operate continuously, and to a large extent without attracting attention; and in so far as they accomplish the intent, they are to be regarded as continuous manifestations of the sovereign authority of the people which established them. If they fail of full effect, they at least show the purpose of the

Constitution, that every officer and each department of the government should at all times be in due subordination to the sovereign ruler.

The guarantee of liberty of speech and of the press, which is so effectual that no legislature can take it away and no court or officer hamper or abridge it, is meant to be as well a guard against public wrongs as a means of redress in case they are committed. The intent is that by the free utterance of feeling, sentiments, beliefs, and even suspicions, in respect to public affairs, warning may be given of any threatened danger or wrong, and the public heard in condemnation; or if the wrong shall be actually accomplished, the general voice may be at liberty to arraign the wrongdoer at the bar of public opinion, and inflict upon him such punishment as is involved in a public exposure of his abuse of trust or of his failure to meet the requirements of his position. The free use of this liberty is supposed to be an important part of the self-government of the people. It checks abuses; it punishes public offenders; it prepares the people for the proper and intelligent exercise of their duty in elections; it assists in driving unworthy characters from public life, and it enables those in office to understand public sentiment, and leaves them without excuse if they fail to respect it. Whoever makes use of this liberty to enlighten his fellow-citizens on public affairs, or on the conduct of public officials, is exercising a function of government, and if he does this conscientiously and with a view to just results, is performing a public duty which is imposed upon him by virtue of his citizenship in a free State.

The right of the people to bear arms in their own defence, and to form and drill military organizations in defence of the State, may not be very important in this country, but it is significant as having been reserved by the people as a possible and necessary resort for the protection of self-government against usurpation, and against any attempt on the part of those who may for the time be in possession of State authority or resources to set aside the constitution and substitute their own rule for that of the people. Should the contingency ever arise when it would be necessary for the people to make use of the arms in their hands for the protection of constitutional liberty, the pro-

ceeding, so far from being revolutionary, would be in strict accord with popular right and duty.

The continuous sovereignty of the people is sometimes manifested in a very striking manner when a department of the government assumes to take action which is not within the authority that has been delegated to it. The legislature, for example, adopts some enactment which is not authorized by the constitution. In a legal sense this enactment is void, because the people, in limiting the authority of the legislature by their constitution, have in effect declared that when the limit shall be exceeded the law-making function shall be inoperative. The people, therefore, nullify the unauthorized enactment by refusing to obey it; and this any one of them may do with the most perfect impunity, because the law will be with him in doing it. He needs for the purpose no judicial decision, no official assistance; he simply obeys the constitution, which is the law made by the sovereign, and is therefore paramount, instead of the law attempted to be made by the subordinate, which must necessarily be inferior, and if conflicting, inoperative.

When official wrongs are committed for which other remedies are ineffectual, a resort to the courts for the infliction of criminal penalties remains. The institution of a criminal prosecution may perhaps be made the official duty of some public prosecutor or other officer; but this duty is not exclusive. It is the right of every citizen to be complainant when the Commonwealth is wronged, and what is his right may become his duty if the law appears not likely to be otherwise vindicated.

Where wrongs proceed from private persons there is commonly a double wrong: first in the individual who violates the law, and next in the officers who fail to prevent the misconduct or to punish it. But the neglect of officers does not excuse the people for like neglect. If a bully shall flourish weapons and threaten violence, or shall actually be committing violence upon his family or other helpless persons, no citizen can innocently ignore the fact on the pretence that it is not his business to right the wrongs of others; for to right wrongs is precisely what he undertakes to do when he assumes the privileges and obligations of government.

It seems very obvious, when we consider the rights reserved to the people in forming their constitutions, and in choosing their official agencies, that the position of the American sovereign,—the aggregate citizenship,—as regards the enforcement of the laws and the protection of rights under them, is strictly analogous to that of the individual sovereign of a country, and is subject to all the same responsibilities and duties. The business of the sovereign is to govern; to make laws and to compel obedience to them; to give to the people the benefit of the laws in the protection of the public peace, and of individual liberty and right. And tho the duty to exercise functions of government may be delegated as a trust to individuals selected for the purpose, and in general must be so delegated, yet these persons can act as subordinates and agents only, and their responsibility is secondary to that of the principal who makes use of them as instruments. Agents are to perform not their own work, but the work of the principal; and if they fail in duty, and disorders occur in consequence, the principal, upon whom the final and continuous responsibility rests, must find the remedy. The sovereign himself must rule the State, whether he employs for the purpose many agents or few, just as much as if he employed none at all. The American sovereign, it is true, takes no oath to do this, such as is customary for hereditary rulers; but the reservation of the power by their constitutions is of itself a pledge to the coincident duties, and an oath could add nothing to the obligation.

Are these duties regularly and habitually performed under a sense of responsibility involved in the reserved power of self-rule? No conscientious and thoughtful person can answer this question in the affirmative. It is matter of common observation that laws are made by the representatives of the people which are afterwards suffered to be violated with impunity, the violators being not only never punished, but never complained of. We make no allusion now to such isolated and secret offences as under a vigilant government might escape detection or proof, but to open, bold, and contemptuous violations of law; where not only are the offenders known, but the proofs of guilt notorious.

Take, for example, the case of statutes to restrain or suppress

the sale of intoxicating drinks as a beverage. Some of these absolutely prohibit the manufacture and sale of intoxicating drinks in the State enacting them; some of them simply surround the sale with securities for the protection of public order and private rights, and require heavy license fees from dealers. All of them are supposed to express the sovereign will on the subject to which they relate, and if that will is, for practical purposes, the law of the land, they will be obeyed. That they are not obeyed is notorious. There is not a State in the Union having laws on this subject which are at all stringent in whose large cities, at least, they are not disobeyed with practical impunity. Attempts to enforce them are spasmodic; they are made by single individuals or classes, while the general public look on with unconcern, or at least without giving active aid; and if they succeed in some cases they bring no warning, because the successes are exceptional. The dealers decide that they will not obey the statute, and it fails of effect; there is therefore one law upon the statute-book and another in the drinking places, and it is the latter which prevails. The sovereign will of the State succumbs to the will of the classes it attempts to restrain, and *pro tanto* there is an abdication of government.

To a considerable extent the same truth holds good in respect to the laws against gaming. If we inquire in any leading city of the country, we shall expect to learn that gambling places are open in various parts of it in which the laws of the State are habitually violated; that this fact must be known to the mayor and the aldermen, to the superintendent of police and his subordinates, to the sheriff and his officers, and to considerable numbers of business men and other citizens. But probably not one of all these persons is making vigorous effort to enforce the sovereign will of the State as against the conflicting will of the "sporting" classes, or is apparently conscious of a personal responsibility resting upon himself, as a participant in the sovereignty, to do what he can to make the law respected.

The case of laws purporting to regulate the sexual relations is still worse. Nominally, prostitution is prohibited; but in all considerable towns it is practically allowed, and the penalties against it are seldom enforced except when other disorders follow. The law, therefore, is that prostitution may be carried on,

and that statutes to the contrary may be disregarded. In every State there are also statutes which restrict divorce to certain specified causes; but the actual law is different, and every day divorces are being granted for causes unknown to the statutes. The courts, which often are not very vigilant, and do not always care to be so when there is no contesting party, suffer fictitious and collusive cases to pass into judgment; and we seem to be almost approaching the period when marriages will be arrangements of temporary convenience, to exist at the will of the parties concerned. This is a crying evil, and some persons have supposed a remedy might be found for it in a national divorce law, which should make the causes for divorce uniform throughout the country. Such a law would take away the opportunity for fraud by means of fictitious residences in States whose laws were most liberal; but this would do very little towards reform. The real evils arise from the very lax public sentiment on the general subject. A national divorce law would almost certainly be a very liberal one; but if it were possible to enact and enforce one of a different character, an inevitable result would be that the irregular and illegal relations now so common would find considerable countenance in public sentiment, or at least considerable tolerance, and would increase in number and publicity.

A more flagrant example of the nullification of statute law, and one involving several very gross and palpable wrongs, is to be met with in the case of homicide for alleged family offences. The two principles that in the administration of justice are absolutely without exception are, that no man shall be judge in his own cause, and that no person shall be condemned without a hearing on the evidence. These are fundamental; but we repeat them in our constitutions in order to emphasize them and put them beyond question. The Constitution of the United States, in prohibiting the States to deprive any one of life, liberty, or property without due process of law, renders the States powerless to set aside either of these principles. But what the State is powerless to do the Honorable Mr. Smith, or Colonel Jones, or Judge Robinson is suffered to do with impunity. Accusing a neighbor of an offence against his family rights, he proceeds to give judgment upon his own accusation; he allows

no delay, no hearing; he condemns, and he executes his own sentence. In the eye of common and statute law this is murder, with many circumstances rendering it peculiarly atrocious; among the least of which is that the punishment inflicted for an unproved offence is such as the State would not sanction if the offence were confessed or established on trial. But in some parts of the country an individual is not only suffered in this way to put aside the common law, the statute law, and the constitution, and to make and administer a law which is the mere outburst of his passions, but the public give this nullification of their own will approval, and if called upon to sit as jurors sanction it by their verdict. Intentional homicide with malice aforethought is thus excused upon a plausible story of personal injury in the perpetrator, which the other party, being promptly put to death before he could be heard, is unable to contradict. This is an advance upon the practice of the amusing primitive magistrate who refused to listen to the defendant after the plaintiff had told his grievances; for, tho he refused to hear one party, he at least stopped short of death in awarding judgment.

Other illustrations might be taken from the laws to secure freedom and purity in elections, but it is not needful. That evasions of those laws are calculated upon by managers and connived at by parties is well understood; and as many persons perhaps are amused as are indignant when one votes "early and often," or otherwise renders the law a lifeless utterance.

The most conspicuous instance of constitutional reservation of a share to the citizen as such in the ordinary administration of the laws concerns the jury service. Jury trial is preserved by every American constitution, and is given a certain sacredness, as something the value of which has been put by time and experience so far beyond question, that it is not to be submitted to legislative discretion or judgment. The right, and the correlative duty, to participate in it is a part of the people's sovereignty; the right to have one's rights determined by it only the people themselves by formal and deliberate action can terminate.

Whether it is wise thus to consecrate jury trial may be and is a serious question; but there is certainly much good reason

for it. In theory this method of trying the facts seems the best possible. What is the theory? It is that twelve freeholding citizens, selected without bias, and representing different employments, different classes of society, different parties, and different religious and social organizations as may happen, but wholly impartial as between the litigants, shall be the judges of the facts in controversy; consulting together upon them, weighing and canvassing the evidence, rejecting whatever to their common-sense appears false or improbable, and giving what seems its due weight to the rest, until a conclusion is reached in which all can unite. There is value in every feature of jury trial—in the requirement that the jurors shall be freeholders; in the investigation to determine their impartiality; in their being taken indifferently from the various conditions and circumstances of life, so that the prepossessions and prejudices of one class, if any there be, may be corrected or neutralized by the others; in the considerable number required for the panel, and even in the most doubtful particular—the requirement of unanimity. The sifting of conflicting evidence and the canvassing of witnesses is simply the application of the common-sense of the triers to the stories told on the witness stand, and the probability that an aggregate body, not too large for calm consultation and deliberation, will reach the truth is presumably greater than that it will be reached by a single judge, tho he may be more able and wise than any one of the twelve. The theory of jury trial seems, therefore, to be sound and right, and we see abundant reason for preserving it, independent of the inherited veneration we feel for its service to liberty in former times.

By the jury system every substantial citizen is a judge, and the life, liberty, and property of his fellows may be passed upon by him. He is not set apart to be a judge at all times and in all controversies; but he is a judge when the lot selects him, and he undertakes, as a party to the constitution of the State and nation, that he will faithfully perform his duty as such, and do justice to the best of his ability. This duty is most important in the great cities, not only because there the cases to be tried are likely to be most weighty and complicated, but also because in the cities the number of those who have the legal qualifications of jurors is relatively smaller than elsewhere.

Let us now ask how the substantial citizens of the country, and especially of the cities, perform this duty, which by institutions of their own making has been imposed upon them. Do the men of wealth and leisure in New York, the great merchants and manufacturers, the artisans and builders, the publishers and editors, the managers of banks and railroads and insurance companies, and of the thousand other organizations whose capital, and energy, and business ability make the city the commercial metropolis of the Western hemisphere—do they or any considerable proportion of them exhibit a willingness to perform their part in the government when summoned to this duty, and do they promptly respond to the call, intending with patience and fidelity to discharge the obligation it involves? Or do the leading citizens of any city in the Union show in their conduct that they accept in good faith the duty of jurors, and intend without evasion to perform it?

There is not a person in the United States who is both candid and intelligent but will without hesitation answer these questions in the negative. Jury duty we know is habitually shunned and evaded. Very seldom a man with large business interests puts aside his private affairs that he may perform it: very seldom a banker leaves his counter or an editor lays down his pen, or a prominent business man in any line leaves his business to his subordinates, in recognition of this great duty to the public.[1] The officers who select and summon jurors understand this, and are not likely to call upon him. If he is summoned, he is likely to treat the call with contempt; and if the court takes the trouble to send for him he will escape service by paying a fine. It is no longer the case, therefore, that trial by jury is trial by twelve substan-

[1] It has recently been the subject of commendatory remark in the public press, as something deserving of special praise, that a certain leading Member of Congress and candidate for the Speakership, when summoned to jury duty, promptly took his place in the jury-box and avowed his purpose to serve. But why should he be praised for it? Nobody bestows praise upon him for taking his seat in Congress when that body convenes; everybody assumes that to be of course, because it is his duty as a member. But the duty to serve as a legislator is no more imperative than that to serve as a juror; and really fit men are needed as much in the one place as in the other. Special praise for recognizing the duty can only be taken as an admission of general dereliction.

tial citizens freely chosen, but it is trial by such twelve persons as consent to sit. Some may sit from a sense of duty, some from fear of fines, some because they are without business, some because they are corrupt, and hope for an opportunity to make dishonesty profitable. It is an exception—in the cities a rare exception—when a jury represents the average ability, intelligence, and character of the community.

It is under such circumstances matter of course that jury trial shall be ridiculed and denounced; but let him who is without sin cast the first stone. When we condemn it we condemn a system of which we ourselves are a part, and which is ridiculous or corrupt because we fail in duty to it. For our private ease or convenience we put aside the duty, and the idle, the ignorant, and the mercenary assume it. The fit leave their proper places vacant that the unfit may take them, and when afterwards they complain that evil results follow, the complaint is self-condemnation.

If every capable citizen were honestly and conscientiously to accept and perform the service which the constitution and laws require of him as a juror, this method of trial might not only be restored to its former usefulness and dignity, but there is reason to believe it would recover public confidence, and hold with general approval the place it was meant for as one of the chief instrumentalities in self-government. But with individual duty repudiated, the jury is without public respect, and therefore necessarily without usefulness.

If, in so far as self-government is allowed to be supplanted by something else, satisfactory results are being obtained, the fact that the theory of the constitution is departed from is not, perhaps, very important. The excellence of a government is determined, not by its theory or its forms, but by its success in giving order, security, and content to the people; and when experience satisfies the country that any principles of its constitutional structure, or any forms, require change, the gradual modification by custom, to be by and by recognized in express changes in the constitution, may be the best. But none of us is ignorant that discontent with the administration of public affairs has grown and strengthened in proportion as the people have evaded their duty in government. Elections, which we

were predisposed to regard as a specific for the evils in free government, have wholly failed to answer such expectations. Some of the most serious of these evils are not within their reach. This is the case with all such as spring from the neglect of duty by private citizens. Elections might redress official wrongs if they were free, and if every man's vote was intelligently cast and controlled by his judgment; but this is far from being the case. Persons are chosen to be governors and members of Congress by the votes of men who in their hearts protest against the compulsion of party that demands it, and men are defeated by the votes of those who know and admit their superior worth and fitness. If a bad officer is rejected, he feels no condemnation so long as his party stands by him, and an election is so far from being an approval, that it may be found to come from the votes of a mercenary body of men who, by holding the balance of power between the parties, are enabled to control the district or the State. In elections party is more powerful than public opinion; but party itself is controlled by the few who make management their business, while the mass of the voters give this duty their attention only on election day, or at most on that day and the day for caucus or convention, after the course of things has been conclusively fixed by self-elected rulers, who, for practical purposes, constitute the party.[1] Elections under such circumstances are no proof of public approval; worth may influence the result but slightly; experience, if taken into account at all, may be taken as a reason for a change instead of a continuance in public place.[2] This does not come from perversity or evil intent, but from failure to recognize public obligations and duties, or at least their continuous and exacting demands.

These evils are not new, and tho some of them have as-

[1] A curious illustration of the manner in which it is assumed that the managers are "the party," is had in the recent utterances of a leading politician, who, in urging a plan for the reformation of "the primaries," speaks of the necessity of bringing *the people* into more intimate relations with *the party*.

[2] In a recent school election for an important town there was a rally of voters to put out an experienced board in favor of entire new men, for no other reason apparently than to show that they had the power to do so. After having succeeded, the meeting unanimously passed resolutions praising the wise management and economy of the board they had expelled.

sumed new forms and are more inveterate than formerly, there is no purpose in this article to say or to intimate that popular government on the whole is less satisfactory than in the early days of the republic. On the contrary, in many particulars there has been a steady if not a satisfactory advance. In other respects there ought to be a like advance when the need of it is once pointed out. To admit that the failures in government which have been indicated are without redress, is to admit the incapacity of the people for self-rule. To this none of us can assent. If the civil service is ever reformed, as there is reason to believe it is to be, elections will to a large extent be reformed also, and will come nearer a just expression of public sentiment. Side by side with this reform should go a vigorous effort to bring about a general realization of the fact that public duties under popular government are necessarily continuous, exacting, and burdensome, but must nevertheless be performed if the government is to be perpetuated. The absence of a king or a hereditary aristocracy is not popular rule; government is not a matter of caucuses, conventions, and elections merely. Paper constitutions do not establish government: they only lay out a groundwork, and by themselves are worthless and lifeless. However sound or noble may be the principles they attempt to express, constitutions and principles will alike sink into contempt unless the sovereign authority gives them life by giving them efficiency. If a king is king only in name, and subordinates his public duties to his ease and his pleasures, the actual rulers are likely to be his sycophants and flatterers—perhaps his mistresses; and their rule, like all irregular rule, will invariably be selfish and generally tyrannical. And what is true of an individual ruler is true of the aggregate ruler. The American people, with power as absolute as ever existed, have emphasized in their constitutions the declaration of their sovereign authority, and their purpose to exercise it. But their mistake has been in assuming that the declaration was to be self-executing, and that to proclaim self-government was to establish it. The obligation to perform day by day the duties involved in popular government has either failed of recognition altogether, or has been treated as tho, being the obligation of the community at large, it did not charge with duties any particular citizen. It

has been assumed that if individuals perform such services as are expressly commanded by law, and thus escape legal penalties, they are subject to no reproach as citizens, and anything further in the public interest must be matter of choice and voluntary individual action. A necessary result is that public duties are ignored or evaded; disorders follow which no one feels it his duty to suppress; and parties by indirect methods possess themselves of the power of the State and employ it to advance personal interests. Surely when this takes place the government is not self-government, whatever may be the theory or the provisions of the constitution. The necessary condition of self-government is personal and ready participation of the individual citizen wherever participation is needful to accomplish the purposes of the constitution or to ensure the enforcement of the laws. To a certain extent only does the law suffer the duties of the citizen to be delegated to officers, and even then his watchful oversight is assumed. The citizen who evades his duties or leaves them to be performed by self-chosen and mercenary rulers, is guilty of a crime against the State and against free institutions in general.

There is need also that we distinctly understand and appreciate the fact that the constitution and laws of a State never do and never can prescribe all the duties of its citizens. In America it is agreed that certain subjects shall be excluded from the domain of government which are regulated by it in other countries; but it is nevertheless supposed that citizens will perform in respect to them such duties as an enlightened conscience shall dictate. This is the case with religion: we will suffer government as such to have nothing to do with it except to protect the people in their exercise of religious privileges. But a very large proportion of all the people are of opinion that religion is a valuable conservative power in the state, and that its influence upon the laws and their administration is in a high degree valuable. It cannot be doubted that upon those who thus believe there rests a public duty to give countenance, encouragement, and support to public worship; and this duty being governmental in purpose and end, has no necessary connection with personal belief or faith. The State also, while providing for the administration of charity, never undertakes to make the provision complete, or

to prescribe to every citizen the full measure of his public obligation. Indeed, the attempt, if made, must necessarily fail. At best the charity of the law must be cold and formal: it can stir no warm feelings; it can excite no gratitude. To have the proper and full effect of charity it needs to be supplemented by the voluntary contributions of the people, collected and disbursed by charitable persons or organizations, who will be moved to what they do by no other compulsion than that which springs from humane impulses and sentiments. Only the charity that is the outward expression of heartfelt sympathy and self-denying benevolence can fully accomplish its purpose, and put the benefactor and the recipient in sympathetic relations as constituent members of the State, with common interests and reciprocal duties. And it may be added, that organized private charity is much less liable than public to foster fraud, and to encourage the idle and the vicious in their depravity. The duty of preventing cruelty to children and to animals almost of necessity is taken up by voluntary organizations, for much of it comes incidentally in family management or in ordinary business, and may take place before the eyes of the community without its significance being recognized or noted. Only an agency specially devoted to its suppression is likely to do effectual service.

The fact ought to be recognized and admitted also that the most effective agencies in bringing about reform of the evils and abuses in government have always been the voluntary organizations. It was not the law or the public prosecutor or the courts that broke up the fraudulent combination which a few years ago had fastened itself upon the city of New York for the purpose of public plunder; and no man can say how long the combination might have retained its power, nor how extensive might have been its robberies, had not private citizens in the performance of their civic duties originated and carried forward the proceedings which at last brought the guilty parties to disgrace and punishment. Other cities have had similar experiences. When corruption is installed in authority it makes use of the law as the instrument for perpetuating its power, and concerted action of private citizens to overthrow misgovernment becomes a necessity. It has been found to be so in State and National government. What could have been more hopeless

than the reform of the civil service, had not private citizens and voluntary organizations begun the work and pushed it forward with vigor and determination, until a sentiment was created which politicians and men in power deemed it wise to bow to and conciliate? But if government is to be self-government; if the people as a verity are to possess and exercise the sovereignty, and are to make the laws and cause them to be executed; if they would have a wise government or a pure government—it is not less essential that they should sometimes act in their capacity of private citizens in cases not prescribed by law, but which nevertheless have a direct and necessary bearing upon good government, than it is that they should cast their ballots for suitable persons in elections, or that they should perform jury duty, or bear arms when summoned to the defence of the State. If the citizen fails to recognize this obligation, and contents himself with the suffrage, and with the performance of such acts as the law commands, and suffers wrong, oppression, fraud, and dishonesty to possess the government or any of its departments or agencies, when his influence or efforts, legitimately directed and employed, might prevent it, he should neither be tolerated in complaining of the consequent injury and wrong to himself, nor be countenanced in any assumption that he is a worthy member of a self-governing commonwealth, and is himself one of its rulers. Whoever refuses to "stand fast in the liberty" to which he is called, by performing courageously its obligations and duties, must be content to be "entangled again with the yoke of bondage."

THOMAS M. COOLEY.

DIVORCE-REFORM.

IT is extraordinary progress in the movement for reform in divorce legislation that it has so soon reached the stage where its chief danger is from its friends. According to precedent in the history of such movements, there should be, first, a period of active resistance; then a period of negative opposition, resting upon vested interest and the *vis inertiæ* of society; and later, when the ultimate success of the reform begins to be assured, a period when the most important and vital contest has to be with partisans of reform compromising their cause by demanding exorbitant measures and asserting untenable doctrines. The divorce-reform seems already to be passing out of the second stage into the third. Very few are the decent people who venture nowadays openly to defend the existing condition of divorce-law in the United States. More numerous, and more dangerous, are those adversaries who have nothing to say in answer to the demands for reform except in terms of faint sympathy, while hinting that the case has been very much overstated, and who, while assenting to general principles, are averse to any practical application of them; whatever improvement of legislation is proposed, they may be counted on to object to "this particular measure;" they deprecate the agitation of the subject as likely to disturb social, political, or ecclesiastical harmony; and they reinforce with their dead-weight the *inertia* of the public, the passions of the lewd, and the vested interests of the lower strata of the legal profession. With such as these, no other argument is half so convincing and converting as the manifest set of the current of public opinion. If they lack "the courage of their convictions," they are capable of no small valor in the courage of

other people's convictions. And there is serious danger from this very class of people that, in the progress of reform, it will furnish more than its quota of those who will by-and-by endanger and perhaps for a time defeat it, by unintelligent assumptions and extravagant demands.

An article on prevalent abuses of divorce, published in the PRINCETON REVIEW in July of last year, under the title "Polygamy in New England," gave occasion to extensive comment in all parts of the country, and among all sects and parties, such as to indicate the various currents of public opinion on this subject. Only here and there is any journal found that has the impudence openly to justify the existing facility and prevalence of divorce—to claim that "when an error has been committed in case of a marriage without thorough mutual acquaintance, it is humane and just to rectify it lawfully;" —that "every time the legislature repeals one of the causes embraced in our laws as a rule for granting a divorce, it inflicts an injury upon society generally." But this is the doctrine of a leading newspaper in the capital of a New England State. More frequent are those which refer to the statistics of marriage and divorce in New England—figures derived from public record, and as trustworthy as such figures can possibly be—as "probably very much exaggerated," and belonging to "what may be called the fluxions of statistics" (as pretty a phrase as ever was devised by a hopeless disputant to parry the force of incontestable facts), and which lament the use of sarcasm on such a subject, and deprecate holding up to public ridicule three reputable citizens who had really done nothing but advocate easy divorce before a legislative committee. It is needless to say that the newspapers of this class are of eminent respectability, that they sincerely regret the existence of abuses and would be overjoyed to see them opposed, in a proper spirit; also, that they regard the facts concerning divorce among the native population of New England and its colonies to be well answered by the fact that foreigners and Roman Catholics in New England sometimes desert their wives.

But it is gratifying to testify that the greatest number, and by far the greatest weight, of the journals which have discussed the matter "brought into court" by the article in question

have dealt with it frankly, earnestly, indignantly even, recognizing the flagrancy of the abuse, and demanding reformation. The great current of opinion sets in the right direction.

The only class of comments that gives serious cause for anxiety concerning the future of divorce-reform consists of those which express enthusiastic approval, and demand that legislation shall be conformed to the eternal standard of right and wrong set forth in the Gospel, as the only right standard of legislation—a demand with which neither the article nor its author has a particle of sympathy, as he will presently make manifest.

But before coming to this practical subject of what ought to be the reforms of existing divorce-law, one more class of comments on the article "Polygamy in New England" deserves a measure of attention. The article has had the effect of drawing a certain class of critics into the study of that most seductive and fascinating question, How is our own superiority in virtue to be accounted for? How is it that we in New York have maintained so respectable a statute, while all our neighbors to the east and to the west have fallen so low? How can it be explained (so the New York *Churchman* asks, with the unfeigned humility of a grateful soul) that Puritanism should have come to "legalize polygamy and authorize adultery,"—and finds an explanation of it in the influence of John Milton. It is perhaps not the most magnanimous aspect of humanity, but still it is human, to find in the earnest and painful efforts of a community for the reform of a frightful abuse the food for a comfortable complacency in the spectators, or the opportunity for a little sectarian bounce and swagger. But it is prudent for such lookers-on to be quite sure of their position before giving public expression to their feelings. It is by no means certain that New York law concerning the sanctions of marriage is so much more respectable than New England law. It is the Puritan States, whose legislation is formed on the basis of the Mosaic code, that write adultery in the list of felonies, and punish it with imprisonment and disfranchisement. It is the States which, like New York, have received their traditions of law from England, as English law was left by the English Church Reformation, that have

virtuously purified themselves of the crime of adultery, by making adultery to be no crime, but only (if one is disposed so to consider it) a personal grievance, for which damages may be recovered by civil suit for "loss of service." Is it altogether surprising that the demand for larger divorce facilities should not be clamorous in a State which has inherited the worst opprobrium of English law, so that its penal code is a general permit of adultery to all men and all women? The cause of this anomaly is to be found in the character of the English Church Reformation, which conserved the sacramental idea of marriage so far as to hold that offences against it should be punished only by church-discipline. And since the Reformed Church of England has no discipline, it follows that adultery is not punishable at all within "the ecclesiastical realm," except by the "cruel and unusual" process of reading the Commination Service once a year in church to so many of the adulterers and adulteresses of her communion as are pleased to go and hear it.

It is well to give unstinted honor to everything that is honorable in the long record of the Roman Catholics on the subject of marriage and the family; and to recognize with the praise which it justly deserves the new-born interest of the American Episcopalians in questions of public morals. But on the whole it is hardly necessary for either of these parties to perplex their minds or exhaust their historical information in search for the causes which have made them so superior to the rest of us in their regard for the sanctity of marriage. It is perfectly demonstrable that where the Reformation was instituted and carried forward on Puritan principles, one of the constant incidents of it was the severe punishment of crimes against marriage, as contrasted with their impunity previously or elsewhere.[1] It must doubtless be a pleasing study to the readers of *The Churchman* to grope for an explanation of the revival of virtue in English society, and the rehabilitation of the sanctity of marriage, consequent on the overthrow of the Commonwealth and the restoration of the Stuarts, and to find it, at last, in the prevalence of "Church principles" and the

[1] See Bayle's Dictionary, article *Saint Cyr;* Blackstone, iv. 64.

temporary extinction of John Milton. But for real edification and the cultivation of the meeker virtues, it would be far more profitable to them to ask (for instance) whether the fact that the most shameful laws in Christendom, on this subject, are the laws of England, stands in any relation to the influence of those eminent Reformers, Henry Tudor, Defender of the Faith, and the Right Reverend Dr. Cranmer; or whether there is any significance in the fact that the prevalence of divorce in New England does not begin until the exclusive supremacy of Puritanism is impaired and the Episcopalians begin to grow to a certain measure of influence.

Coming back, now, to the writers in various quarters who have welcomed the author of "Polygamy in New England" to the ranks of those who demand that public legislation on the subject of divorce shall be conformed to the morality of the Sermon on the Mount, he begs them distinctly to understand that he does not ride in their troop; that he regards their canon of legislation as false, unscriptural, and mischievous. It is held by those who (whatever their theories of inspiration) have so little real respect for the Scriptures that they find in them two moralities—an Old Testament morality, and a New Testament morality that superseded it. There is no such duplicity in the Scriptures. That one of the prophets who is eminent among them all for his devotion to the law of Moses to its last details of ritual—Malachi—enunciates the exact morality of the Gospels, and sustains it by the identical argument used again, after so long a time, by Jesus Christ—the argument from the creation of one woman for one man. "Putting away" did not *begin* to be an abominable thing in God's sight about two thousand years ago. He always hated it, even when Moses, in His name, was giving a "law that was not good"—a law forbidding this hateful thing to be done without a notarial act. We have not two moralities here, but two different things,—one of them morality, the other jurisprudence.

There is no principle more distinctly taught in the Scriptures, none better worth pondering by American citizens, (and all the more as it is so commonly perverted by men that ought to know better,) than this—that the standard of personal duty is not the criterion of right legislation; and conversely, that pub-

lic law, even good law, is not the standard of duty for one's conscience. Blind to this principle, the scribes and Pharisees of Christ's day took that solid maxim laid down in the Mosaic code for the assessment of penalty and damages—"eye for eye, tooth for tooth"—for the gauge of personal duty; precisely as nowadays people will take up some clear maxim of morals, and demand that because this or that is morally wrong, therefore it must be made a penal offence by statute.

This is a very common and sometimes an effective line of argument in urging reforms in legislation. We never fail to hear it in a "prohibition" speech, and almost never in a speech for the Sunday laws. If it were sound it would be conclusive on the question now pending. But it is a mischievous fallacy. The movement for divorce-reform had better fail than succeed by means of it. There must be a hard fight, any way, against a growing shame that is intrenched in the statute-books, is a vested interest of the legal profession, is infecting the churches, and finds much timid acquiescence and now and then an unblushing advocacy among persons not otherwise disreputable; but a persistent fight will overthrow it, unless frustrated by the superserviceable assistance of fools and fanatics who "assume that all laws which allow divorce for lesser grounds than adultery are contrary to the law of God," and insist on engrossing the Sermon on the Mount into the penal code.

One demoralizing effect of this fallacious notion that personal duty is the standard of public law is seen when men turn it end for end (as they did two thousand years ago, and do today) into the maxim that public law is the criterion of individual duty. It is high time—no! it is long past the time—for Christian churches to give the State to understand that whatever acts are entered on the statute-book, the law which the Church administers is the law of Christ; and that when the State declares that to be lawful marriage which Christ declares to be adultery, it must count on finding the Church taking sides with her Master. It is long, long past the time for this. Churches and ministers have shamefully surrendered to Cæsar the things that are God's. The disgraceful laws of the New England States, that fall so far below the standard of good secular legislation, are become the canons of church fellowship.

Adulterers and adulteresses, the only mitigation of whose crime is that it is licensed by the State which ought to punish it, sit down together unrebuked at the table of the Lord's Supper. And in one notorious instance, at least, a man who has put away his wife, giving her a writing of divorcement, is maintained, without so much as the institution of an inquiry, in the fellowship of the Congregationalist ministry.[1]

It does not appear that there is often any serious difficulty, either in New England or out of it, in finding reputable ministers of any desired Protestant denomination, who, for a ten-dollar bill, will stand up before an adulterous couple and declare them, in the name of the Lord Jesus Christ, to be husband and wife. If there has ever been an instance in which this transaction has brought the culprit under any formal censure from his brethren or his superiors, the fact is not generally known to the public. That Christian communion which will not only pass canons and resolutions and appoint committees, but will depose and excommunicate somebody for this business, will thereby reinforce its credit with the public for sincerity and earnestness in its belief of the New Testament.

It is easy to imagine the sense of assured victory with which the advocates of facile divorce will welcome the abandonment of the unscriptural argument from Scripture, and the putting of the subject on its proper basis of expediency. On the question whether, as a matter of expediency, an uncongenial couple should be allowed to separate and remarry there is so little room for hesitation! Here is a man who finds that he does not love his own wife, and does love his neighbor's wife. His own wife is willing to be rid of him, or if she is not, he knows a short and easy method to make her willing. His neighbor's wife shows a pleasing reciprocity, and has also at her command a large variety of arguments which can hardly fail (with due encouragement from the State) to bring her husband to a like con-

[1] Let me do this respectable sect the justice to say that if, on the one hand, it is more distinctly implicated than others in fellowship with this iniquity, on the other hand, it has the honor of having in its clergy the first "confessor" of righteousness—the Rev. Mr. Cutler of Hebron, Conn., who is sued at the law for having told a certain Mr. Fillmore "it is not lawful for thee to have her." "Wherefore he had a quarrel against him."

sent. Here then is a case in which all parties in interest are agreed. *Volentibus non fit injuria.* Is it expedient—we appeal to you now as practical and humane men—is it not wrong and cruel—to compel uncongenial and alienated couples to remain under the intolerable bondage of a legal union, when one little whisper across the assignation end of the judge's desk of the Superior Court will set it all right, and instead of two wretched families you have at least one happy one, and perhaps more? Is it not better for the interests of all concerned to have this accomplished readily, quietly, and in an orderly and strictly legal way, and the new union cheered with the countenance of society and hallowed by the prayers and benedictions of a Christian minister, than to have the almost inevitable alternative? Could anything but a cruel fanatic austerity be guilty of refusing it? Such, not always in so frank and lucid a statement, is the case on which the advocates of easy divorce make their *naïf* appeal to the charity of a Christian public.

The worst thing about this appeal is the sincerity of it. The people who talk this stuff do in many cases actually believe it. They really understand by *the interests* of men the removal of restraints upon their passions. And their idea of *love*, instead of the Christian, the human, idea which allies it with duty, which ennobles it with the element of will, conscience, responsibility to the law of God,—Thou shalt, and Thou shalt not,—is simply and baldly the bestial idea which recognizes in human love no more of reason, choice, responsibility, than in the amours of bulls and stallions. "He cannot love his wife. He cannot help loving his neighbor's wife. Shall nothing be done for his relief?" Pah! There is no odor of "Puritanism" about this. It smells of "the sty of Epicurus," of the monkey-cage of Darwin, of the primeval slime of Haeckel.

But perhaps the most mischievous fallacy in an argument which is compact of nothing but fallacies is the one covered under the expression "all parties concerned." It is absolutely amazing to see how far the discussion of this subject is sometimes carried on, on both sides, under the easy assumption that there are no parties in interest in a suit for divorce but the parties to the marriage-covenant, unless the children, if any there be, or at furthest the family connections of the parties to

the suit, are to be counted as having a nearer or remoter concern in it. It was an instructive thing to observe the jocular gayety with which the Honorable Mr. Sumner, of Hartford, pleading in the name of humanity, before a legislative committee, against any limitation of divorce facilities, delineated the miseries of uncongenial marriage, in contrast with the Elysian delights of what, but for this humane expedient, would be illicit love, and described the beneficent working of his law-practice in effecting the transition from anguish to bliss in a given case, with apparently no conception that this case could stand in any more relation to the interests of society than if the parties to it were the sole inhabitants of a coral reef. But at the right hand of Mr. Sumner's beneficiaries there lives another couple between whom arise some foolish bickerings such as under the influence of right conscience, sustained by decent public opinion and righteous law, are suppressed with mutual forbearance and forgiveness, and love revives again. But Mr. Sumner's doctrine and the "humane" practice with which he adorns it are not in vain. That which he has preached at the Capitol, and illustrated in actual life before the eyes of these tempted ones, is not preached and illustrated without effect. Business makes business, and there is a new run of custom at Mr. Sumner's office.

And at the left hand of Mr. Sumner's beneficiaries lives another couple to whom Satan has come near with the more awful temptation of libidinous and adulterous solicitation. Time was when the solemn word of God, Thou shalt and Thou shalt not, would have made itself heard in their hearts, when the conscience of Christian society would have confirmed their own, when the terror of public law would have pointed to the State's prison to warn them from the beginnings of crime. But that is all changed now. They have been taught about "incompatibility." They have been charmed with Mr. Sumner's little speech. They have learned from their next neighbors how quietly and respectably the whole matter was managed, and at what a trifling expense. They know where to go for a minister of the Gospel to bless their purposed adultery "with the word of God and with prayer." They know it must be all right, for Mr. Sumner is such a respectable gentleman. In short, the consequence is a timid knock at Mr. Sumner's office

door—and who will dare allege that philanthropy does not pay?[1]

Oh, a very dignified position indeed does the ancient and austere Puritan commonwealth occupy in this business! It creeps into the meditations of those who would not lightly or unadvisedly enter into the solemn covenant of marriage, and suggests "not so very solemn—there is an easy way out of it if you don't agree." It crawls up the church aisle with the wedding procession, and in response to the solemn words "until death shall part you," chuckles out "death, or the Superior Court." It finds its way into the bridal chamber, and sits, "squat like a toad close at the ear" of innocent love, to encourage evil thoughts by tendering facile opportunities. It intervenes in family alienations to insinuate propositions that are becoming to the fomenter of discord and the pander to adultery. A very noble institution is the Puritan commonwealth! God save the commonwealth!

"The parties concerned," forsooth! As if any man who likes to be able to write after his name the State of his citizenship on a hotel register, without being ashamed of it, were not a party in interest here! As if the State itself were not the party chiefly interested in maintaining the sanctions of marriage! As if this whole "humane" scheme were not a systematic sacrifice of the interests of the many virtuous families to the libidinous passions or the wicked quarrels of the criminal few!

1. Approaching now, the question what change in the laws is desirable, it would be wrong not to say that the first improvement to be demanded is a better administration of the bad laws as they now stand. Some one has got to say, what lawyers do not dare to say aloud, that the course of divorce business through the courts is a personal disgrace to the judges, one and all. In a proceeding which is commonly either collusive or *ex parte* as to the main point, and in which the judge is the only representative of the vast interests of morality, society, and the State, the court habitually acts not only

[1] I have taken Mr. Sumner as a representative man in this matter, because he has volunteered in this capacity, and because he undoubtedly is a highly respectable man—for a divorce-lawyer—no worse than the rest of his class, and a good deal better than some of them.

with reckless haste, and slovenly inattention to the awfully imperilled interests of individuals, which are supposed sometimes to be represented by counsel, but in dereliction and apparent unconsciousness of any responsibility for the interests of society and the State, which have no representative but the court itself.

2. On the low, base theory on which the present laws are framed and administered,—that divorce is an affair between the two parties, so that if they are content it is nobody's business else,—on this vile theory even, there is need of provision against those scandalous malpractices resulting in irremediable damage to the innocent, and in the unpunishable triumph of the guilty, with which the newspapers teem from week to week. Let the statute at least be so constructed as not to effect any more evil than the evil which it aims at and that which is necessarily incidental thereto.[1]

[1] No description or digest of the laws can give so good an idea of what they are and how they work as the following curious and genuine documents sent to a lawyer in Connecticut who answered the advertisement of a New York firm by an inquiry about their terms. The name and address of the firm are of course suppressed.

"NEW YORK, April 26, 1881.

"DEAR SIR: We enclose to you one of our circulars on Divorces. Shall be pleased to tender you our services in a legal way. We have, and are even now obtaining divorces for attorneys in all parts of the country. Our rates to the profession for an ordinary case is only $40; to others they vary from $50 to $250. In all cases $10.50 must be paid when the suit is entered for court fees—the remainder when the decree is granted. Shall be pleased to hear from you at any time. We are very truly yours,

"PANDER & PIMP,
"Main Office, No.— —— Street."

The following is a copy of the circular:

"PANDER & PIMP,
"Attorneys-at-Law,
"No.— —— St. and No.— —— St.,
"New York City.
"Office Hours from 10 to 3.

"Having made divorce suits a specialty, we are familiar with all the laws relating to them in the District of Columbia and different States and Territories. Our suits are brought under laws best adapted to the case. They differ so much that persons wanting divorce should not be influenced by the opinions of attorneys or even judges, in ordinary practice, because *they* may have been unable to obtain a divorce under the laws of their *own* State.

"We are constantly procuring divorces for persons in *all parts of the Union*

3. Instead of a procedure which is prompt, rapid, cheap, and "without publicity," the process for divorce should be so open and so deliberate as to give ample "cooling time" to irritated temper, sufficient opportunity for a hearing to interested parties having a right to be heard, and some chance for personal per-

who could not or did not wish to bring suits in their own courts, and that we do so legally and successfully is evidenced by the fact that we guarantee to refund all money paid in any case where decree is not obtained.

"Your personal appearance at court is unnecessary, as we represent you as attorney, and proof made by your own or other affidavits; no unpleasant notoriety or *public exposure of charges* need attend the suit. We prefer personal interview with clients, as we can much better explain matters than by correspondence, but can in nearly all cases prepare the necessary papers without, and send to you to sign and return to us—no fee charged for consultation in person or by letter. Applicants can marry again in any State or Territory, as the decree places their relations to each other as they were before marriage. When property, etc., is involved, special correspondence is solicited.

"We guarantee to procure a full and absolute divorce with custody of children, if desired, under the latest laws, in about sixty days from beginning of suit, by legal proceedings in a duly qualified Court of Record, for *Incompatibility of Temper*, or where parties cannot live in peace and union together, *Adultery*, *Desertion*, *Bigamy*, *Cruelty*, *Impotency*, *Refusal to provide for Family or neglect of Home Duties and Children*, *Conviction of Felony*, *Fraud in Consummating the Marriage Contract*, and *Marriage under Age*.

"The cost including all court fees and costs will be $—. If you wish us to prosecute your case, fill up the enclosed blank carefully and return to us with $—, which amount is for actual and immediate court fees, which must always be paid in advance. Then we will prepare your petition and send to you for your signature. The balance to be paid upon delivery of decree of Divorce.

Send check or postal money order to

"Yours most respectfully,

"PANDER & PIMP, Attorneys-at-Law."

"*General Decisions by the United States Supreme Court, and other State Courts.*

"The laws of divorce differ essentially from those relating to property and personal rights, and it has been repeatedly decided by the United States Supreme Court and the various State courts, that a divorce once granted by any legally constituted court of record having jurisdiction in such causes, and according to the provisions of the law where such court is situated, cannot be revoked or annulled by any court of another State within the United States, no matter upon what grounds or pretexts it may be obtained, provided the statutory provisions of that State or Territory are satisfied.

"*Decisions of the United States Supreme Court.*

"Both parties to a cause for divorce and alimony which has been given by any of our State courts are bound by the decree. The decree is a judgment of and will be received as such by any other court, and such judgment or decree,

suasion, moral and religious influence, and any other salutary forces of society to bear upon the case; and a better hope of detecting some of the wicked frauds and collusions which seem peculiarly to infest this department of law practice. The indecent haste and secrecy with which the petulance of an hour

rendered in any court within the United States, will be carried into judgment in any other State, and have the same binding force as it had in the State in which it was originally given.

"If the decree had become a matter of Record in the court granting it, it is binding on all the other States and courts in the Union. It is not in the power of any State Legislature, or of courts by judicial decision, proceeding under a statute or not, to reject the record, or give to it an effect less than it has in the State or court where made, and any State law to the contrary is simply unconstitutional. If it dissolves the marriage, all other courts would be compelled to hold such person afterwards to be unmarried.

"A decree of divorce dissolving a marriage is legal throughout all the world.

"A decree of divorce once granted cannot be set aside or annulled for any cause, even if the court granting the divorce was not fully advised of all the facts in the case.

"A decree in cases of divorce and alimony is not subject to judicial revision.

"Courts cannot interfere in a divorce granted in another State.

"Even a review of a judgment of divorce cannot be had in Indiana.

"Fill this circular carefully, and enclose to us money order for $—, and a full and explicit statement of your case.

"PANDER & PIMP, Attorneys,
"No.— —— St., New York.

"Your name in full.
"P. O. Address.
"Where married?
"When married?
"Name of Partner.
"His or her Address.
"By whom married?
"Did you leave him or her?
"How long since?
"Issue, how many?
"Male, age and name.
"Female, age and name.
"Who wishes possession?
"Any real property involved?
"Cause of application for divorce."

Of course one does not look in a document of this kind, either for good law or for good faith. But that actual practice does not differ from what is here described can be proved by many and many a "Modern Instance" more tragical than the "leading case" reported by Mr. Howells.

can be made, in the hands of a "humane" lawyer, to work the speedy and total wreck of a family, is one of the worst characteristics of the American laws.

Naturally enough, it is this very quietness and secrecy of divorce proceedings that is most dear to the heart of that eminent ethical teacher, Mr. Adirondack Murray. In the interests of a pure morality, which he has so tenderly at heart, and out of the depths of an unpleasant experience of his own, he deprecates the publication of the grounds of a divorce petition as painful to the parties and insalubrious reading to the public. But it is not at all for the public interest that the way of the divorce court should be made secret, facile, and delightful; and the public interest must be consulted rather than the convenience or the fine feelings of litigants.

4. The one main defect in our divorce legislation, as it is the characteristic defect in the common way of considering the subject, is the absence of any recognition of the public—society—the State—as being an interested party in the matter. The main desideratum in the way of legislative reform is to provide that the State, with its immense interest to maintain the sanctions of marriage, should be adequately represented in every divorce suit—whether, as in the English practice (which suggests so many good points for our study), by a special functionary like the "Queen's Proctor," or whether, according to a proposal lately made in Connecticut, by charging the prosecuting officer with the defence of all otherwise undefended divorce suits; or whether by allowing citizens, either individually or in associations, to intervene in the interest of decency and morality.[1]

5. Another requirement is for some provision that crimes

[1] The working of the English system is illustrated in the account, in a London paper, of a recent divorce suit, where the woman was sued by her husband for divorce on the charge of adultery with two men. According to the English law, all the alleged guilty parties to a divorce suit are summoned into court. After the hearing a decree was granted the husband on the grounds he had claimed. By the English law the decree is conditional for the first six months, and during that time the Queen's Proctor has the right to come into the case, and if he suspects that there has been any collusion or fraud, to open the decree and contest the case. In the above case the Queen's Proctor opened the decree, brought in his witnesses to prove fraud and collusion, thereby having the husband's decree for a divorce revoked.

disclosed as the ground of divorce proceedings shall be tried and punished. Under the present system, the nominal respondent may be, in multitudes of cases is, the real petitioner for the divorce. He comes into court virtually alleging his own crimes—adultery, cruelty, abandonment, and the like—as the ground of his petition, and goes out again in triumphant impunity, carrying with him papers under the seal of the court which exempt him further from all pains and penalties, when he proceeds to add to his past crimes one more act which but for these papers would be the crime of bigamy.

It is said to be required, in the English system, that the evidence of the malfeasances relied on as the ground of a suit for divorce shall come into the divorce court in the form of a judgment or conviction in some civil or criminal court. If this reasonable requirement were in use with us, or if when crime was alleged in a divorce suit, proceedings should be stayed until the prosecuting officer could take that allegation into the criminal court and try it before a jury, collusive charges of adultery would be found far less amusing to play with in divorce proceedings than they now are; at least this would be true in the Puritan States, in which adultery is recognized as a crime. And one good result of this rigor would be to bring clearly into view an ancient inequality in the law of marriage, according to which the man's unfaithfulness to his marriage vow is less hardly dealt with than the woman's. If the women's-rights agitators were inclined to make themselves really useful, here is their opportunity. With the law equalized at this point, so that "civil adultery" and "criminal adultery" should both be covered by the same definition, this one provision, that crimes alleged in divorce proceedings should be dealt with as crimes, would of itself go far toward being a practically effective reform of the divorce laws.

6. The peculiarly base but notoriously frequent crime of conspiring to procure divorce by fraudulent charges or procedures ought to be punishable as felony. If, instead of the ordinary futile recourse to a cross-bill, there were ready recourse to a criminal process by which the divorce-suitor should be compelled under grave penalties to make good his allegations to the satisfaction of a jury, some of the villanies now practised with

impunity would be attempted only at the peril of the criminal. Such a provision would, in many cases, enable a State to protect its own families from foreign interference, recovering the matter to its own jurisdiction; and would have the additional merit of involving the profession of divorce-solicitor in a share of his client's peril.[1]

7. It is of high public importance to insist, in face of the general opinion of the legal profession, on the restoration of the twofold form of divorce—of the distinction between the divorce *à mensâ et toro* and the divorce *à vinculo matrimonii*. The *naïveté* of the common objection to this measure is impressive. It is held to be dangerous to morality to have a class of persons separated from their consorts but interdicted from marriage, and therefore tempted to fall into immoral relations. And the expedient by which to prevent these immoralities is to constitute the immoral relations moral, by act of legislature. The most obvious objection to this expedient is that it does not go half far enough. Applied boldly and consistently, it is the shortest cross-cut to the Millennium ever yet devised. By this course the crime of adultery has already been completely extirpated from England and from several of the United States; and in like manner all crime might be abolished, and mankind brought back to a paradisaical state of innocence, by so simple a measure as the repeal of the penal code. But until our moral reformers rise to the courage of their convictions, and are prepared to apply their invention on the large scale, it is hardly worth while to continue the petty experiment of refusing to recognize the distinction between legal separation and complete divorce, and of insisting that wherever there is legal separation there shall be complete freedom of remarriage for both parties.

The value of this distinction is not that it would satisfy the demand for easy divorce by a less offensive substitute. That it would not do this in any appreciable degree is demonstrated by the experiment in the State of Michigan, where there is ade-

[1] There is much reason in that application of the *lex talionis* which made the instigator of a false prosecution liable to the evil he had tried to inflict. See Blackstone, Comm. iv. 14. In the notable case of Michael Servetus, the prisoner asked that John Calvin should also be put in prison to await the result of the trial, and in case of acquittal, to suffer the penalty proposed for his antagonist.

quate provision for either separation or divorce, and where the applications for full divorce with liberty of remarriage are multitudinous, and the applications for legal separation are only an inconsiderable percentage. It would not satisfy the demand for easy divorce, but it would answer all the decent and publishable reasons for this demand—the claims of humanity in behalf of the miserable victims of connubial cruelty; it would strip off the disguise of "moral earnestness" from Mr. Murray and his nasty new gospel; it would make distinctly manifest (as it now does in Michigan) the object of the queues of applicants that wait their turn at the divorce-court—that what they are after is not escape from the old partner, but adultery with a new one; it would give the friends of decency and society an effective leverage upon the conscience and sense of shame of all but the conscienceless and shameless, and from these would remove the covert under which they now shelter themselves—that innocent and blameless people are now sometimes driven to make use of the same procedure which is the common resort of the lewd, and to accept from the State, with the protection and alimony which they demand, a permit for adultery which is forced into their hands.

Withal it is of some consequence that the distinction between divorce and declaration of nullity of marriage should be recognized in the language of the law. The confusion of mind implied in divorcing a man because he never was married, as in pardoning a man because he never was guilty, is a demoralizing confusion.

8. Finally: An indispensable part, and probably the most difficult part, of divorce-reform is that which relates to the abuses growing out of the diverse and discordant laws of the different States. How great and mischievous are these abuses is at least vividly suggested by the congratulatory assurances of Messrs. Pander & Pimp, in their circular already transcribed. How real they are, the people of the State of New York seem to be only beginning to find out. The federal system seems to put it into the power of the pettiest of the States to make itself, like Monaco or San Marino among the States of Europe, a nuisance to all its neighbors—a nidus for the breeding of infectious social disease, the spread of which is not checked by political boun-

daries. But it can hardly be charged that any one of our States has actually assumed such an exceptional relation to the rest. Rather, as the New York shysters assure their customers, each State has its special points of weakness and laxity, which these ingenious and "humane" gentlemen are able to combine into a complete system, under which any imaginable demand for divorce can be satisfied, however groundless, inexcusable, and atrocious. What cannot be done in one State can be done in another, and divorce in any is divorce in all. The specialty of one State is a rich variety of lawful causes for divorce; of another, facility in acquiring residence; of another (as in New York), secrecy of procedure and opportunity of fraud. The combination is complete, and leaves to the vilest adulterer or his viler attorney absolutely nothing to desire.

It is natural enough that the first thought of recourse, in such a confederation of abuses, should be to the power of the Federal Government. Since the successful experiments at the close of the civil war, there has been a strong tendency to invoke the federal power to aid in moral or social reforms in the several States. So Congress engaged in the temperance reformation by means of an exorbitant whiskey-tax; and nothing dismayed by the result of this adventure, that sanguine statesman, Senator Blair of New Hampshire, now calls for a national Maine Law and a prohibitory amendment to the federal Constitution, and finds a number of enthusiastic ladies to sustain him. Another movement, which does actually seem to be moving, with a considerable momentum of influence in it and behind it, is the demand for federal subsidies to common-schools in the States, whether with federal supervision of the schools or without such supervision does not appear, nor is it clear in which form the scheme would be the more objectionable. Of course, and *à fortiori*, in the midst of the universally prevalent and most formidable divorce abuses, growing partly out of the sovereignty of the States and partly out of their federation, the minds of reformers, with perilous unanimity, are turning for redress to an amendment of the National Constitution that shall put the law of marriage and the family into the control of the national legislature.

Well: supposing the matter to have been made an issue in national elections, alongside of free trade and protection, and

the question of the civil service, and whatever other federal questions may emerge; supposing that reform to have been carried simultaneously in the States together which has never yet been achieved in one of them by itself; supposing thus that the nation collectively shows itself so much more wise and virtuous than the sum of its constituent parts; and supposing the enormous jurisprudential difficulty of devising all at once a new code of law for the family relations to have been overcome, and the dangerous transition over so vast a gulf of difference between the old system and the new to have been accomplished in safety —then, no doubt, we shall have gained the great advantage of a uniform and a better system of law on marriage and divorce.

But at cost of what a sacrifice! Nothing less than the sacrifice of the Constitution of the United States in its most distinguishing and vital characteristic!—the open abandonment as impracticable of that system of national government by confederation of sovereign States—the system described in the motto *E pluribus unum*—which was the glory of our fathers, as it has been the boast of their descendants, the admiration of political philosophers, and the envy of the nations! Once let the law of the family be taken away from the jurisdiction of the State, and absorbed by Congress and the federal courts as a department of the central government, and how much of the sovereignty or even the authority of the States will then remain? and of what does remain, how much is likely to remain much longer after the establishing of such a monstrous precedent?

It ought to be recognized as one of the gravest of the mischiefs attendant on the intolerable existing abuses of divorce, that they constitute at present the most formidable danger to the perpetuity of the American Constitution. The Union, which could not be destroyed by the most gigantic rebellion in history, may not very improbably succumb to the irritation of multitudes of individual and local annoyances. Within the last few years, before our own eyes, and yet without fixing our attention or teaching us, apparently, any warning lesson, the most ancient confederated republic in the world has practically ceased to exist, giving place to a consolidated nation. By peaceful and orderly but none the less revolutionary measures,

the Swiss federal legislature has been vested with the control of local affairs in the cantons until the rights and powers remaining in the once sovereign cantons are now so meagre that there is an open demand for the extinction of the cantonal governments—a demand to which it is no longer easy to frame an adequate reply. One may go into the Federal Congress at Berne and hear a polyglot debate on a bill prescribing to the village sextons the order in which they shall dig the graves in the churchyards. The lack of comity of legislation between the cantons resulted in so many practical inconveniences, even in such a matter as this of funerals, that it has at last, by a silent revolution, destroyed the cantons, and so destroyed the confederation of them. In like manner the lack of comity between our States in matters of such vital and practical moment as the marriage law must drive us toward consolidation; and in the case of a people covering the breadth of a continent, consolidation (as we need no De Tocqueville to teach us) means disintegration and decomposition.

LEONARD WOOLSEY BACON.

IVAN SERGHEÏEVITCH TOURGENEFF.

IT is a significant sign of the growth of international appreciation, that a writer of the present day who deeply interests his own countrymen soon sees his works passing the frontiers of his native land to meet with sympathetic readers in every quarter of the globe. That the death of Ivan Tourgeneff should have caused so strong and personal a feeling of regret in the United States and throughout Europe, is a testimony at once to his greatness and to the intellectual liberality of the world. It is by no means due to the absence of a national Russian literature that Tourgeneff has been the first of his countrymen to attract the attention of any considerable number of foreign readers: it is rather that he has been the first to combine a thoroughly national spirit with exceptional literary power. In the last century Russia possessed two writers of great repute in Lomonosof and Derzhavin—now hardly known to their countrymen except by name. Zhukovski, an excellent poet, wrote in the early years of the present century; and his contemporary, the historian Karamzin, was the first to show the capacities of Russian prose. The greatest writer of the first half of the nineteenth century was no doubt that Pushkin to whose poetry Tourgeneff so often refers admiringly in his own pages. The reader of "Fathers and Sons" will remember the striking scene when old Nicholas Petrovitch gloomily related to his brother Paul how he had just taken down Pushkin's poems, and had begun "The Gypsies," when his radical son, Arcadi, took away the volume and substituted in its place Buchner's "Stoff und Kraft," a popular work of the German materialist school, with which he thought his father would be much more profitably occupied. Notwithstanding the fact that Pushkin's most cele-

brated work, "Evgeni Onegin," bears distinct traces of the influence of "Don Juan," and that the author himself has not wholly unreasonably been called the Russian Byron, it is yet he who first discarded conventional subjects and forms of expression, and gave a national tone to the literature of his country. Whoever has visited the booksellers' quarter in St. Petersburg must have noticed the evident activity of the trade in books. Many of the Russian publications, to be sure, are translations, but there is no lack of works of fiction, history, and travel by native authors. Prominent among these are the works of Lermontof and Gogol, both of whom preceded Tourgeneff; the military novels of Count Tolstoi, the popular stories of Grigorovitch, the satirical novels of Pisemski, and Gontcharof's "Oblomof." Dostoyevsky, who died two years ago, and concerning whom the eminent Danish critic Georg Brandes has lately published a highly eulogistic article in the Vienna *Neue Freie Presse*, enjoyed a popularity in Russia perhaps equal to that of Tourgeneff, but his books were little known to foreigners. Like the majority of Russian authors, he experienced early in life the tyrannical oppression of the government. Condemned to death for alleged treasonable opinions, he was met by a reprieve when on the way to the scaffold; and his thirteen years of exile and suffering in Siberia gave him that knowledge of the misery of the lower classes which afterwards formed the groundwork of his books. Unlike Tourgeneff, he was an avowed philanthropist and reformer, and wrote openly in the cause of the oppressed. It is said that "what Wilberforce did for the negro in the British Parliament, Dostoyevsky did in literature for the Russian proletariat;" and it is this ever-present didactic purpose which marks the difference between the works of Dostoyevsky and Tourgeneff—the former was a pleader, the latter essentially an artist. The fame of Tourgeneff has eclipsed that of all his countrymen, as it has equalled that of his most noted contemporaries of other countries, no less by the national importance of his writings than by the art, at once exquisite and powerful, by the aid of which he placed his thoughts before the world. He made the real condition of Russia known to the Russians themselves, and he carried the art of expression to a perfection hitherto unknown in his own language and never excelled in any other.

The life of Tourgeneff, unlike that of most Russian authors, was lacking in incidents of a stirring nature. His father was a landed proprietor in the Government of Olef, Central Russia, where Ivan Sergheïevitch was born on November 9, 1818. He obtained a rudimentary education at home, and subsequently studied at Moscow and St. Petersburg. While in the former city his democratic ideas and his admiration of American institutions gave him the name among his fellow-students of "The American," and this predilection in our favor he retained up to the day of his death. When about twenty years of age he went to Berlin and studied the Hegelian philosophy, then so much valued by Russian students, and acquired an extensive knowledge of history and German literature. Soon after his return to Russia, in 1841, he published his first book, a volume of verses called "Panasha." The following five years of Tourgeneff's life were passed on his father's secluded estate, and these years, altho the least eventful, were probably the most fruitful to himself and to his country. Then it was that he roamed far and near through the Governments of Olef and Kalouga, with shot-gun or fishing-rod, exploring the rivers and forests, studying their inhabitants both finny and feathery, drinking in those beautiful impressions of nature which he has since shared so sympathetically with his readers. But above all, it was during these sporting tours, when taking shelter from a storm in the hut of a forest-keeper, when slaking his thirst at a spring in company with a few miserable peasants, when dining with a country proprietor, or borrowing a skiff from a serf, that Tourgeneff studied the different types of his countrymen and collected the materials for the invaluable portrait-gallery which he has left in the "Notes of a Sportsman." These sketches were published as they were written in the Moscow *Messenger*, and even in their detached state excited great interest; but it was not until they were gathered into a volume, when their general effect and meaning could be seized, that the full importance of the work was appreciated, and the Russians really learned to know themselves. The late Emperor Alexander, at that time the Crown-Prince, whose assassination so recently horrified Europe and America, acknowledged that in this book he found his first inspiration in favor of the emancipation of the

serfs. But the government was far from looking favorably upon the truth-telling author; and during the excitement caused by the "Notes of a Sportsman," a pretext was found in Tourgeneff's "Eulogy of Gogol," and he was ordered to remain as a prisoner within the limits of his own estates. During this confinement, an official would appear before him at regular intervals, present his written authority, and say, "What shall I do?" Tourgeneff would place a bank-note within the paper, fold it, return it to the officer, and reply, "Do your duty." Whereupon the representative of the government would bow low, apologize, and retire. At the death of the Emperor, Tourgeneff was released, and his subsequent life was passed almost entirely abroad, where the greater number of his novels were written. Paris and Baden-Baden were his favorite residences, but he was frequently seen at Rome, Florence, and London. As he spoke French like his native language, German, Italian, and English extremely well, he was able to make himself at home wherever he went. At intervals he would return to Russia and visit his estates, but the uncertainty of his position at home and the habit of a cosmopolitan life soon sent him abroad again. In person he was exceedingly tall and handsome, with regular, clearly cut features, a large nose, bright eyes, and a dark beard covering the lower part of his face. His genial manners and kindly nature added a warm personal affection to the admiration felt by many friends for his surpassing intellectual gifts. His mind was pre-eminently that of an artist, but was remarkable besides for uncommon breadth and penetration. No one who has read Tourgeneff's works, and has noticed the vein of sadness and tragedy that runs through them all, can have been surprised to learn that the great author's characteristic melancholy gradually gained upon him, and finally clouded his last days. He died at Bougival, in France, at the age of sixty-five years, leaving a son and a daughter. Tourgeneff's works may be considered from two points of view, both equally interesting—the philosophic and the artistic. We will first review the varied phases of social life which his books present, and then examine the literary methods so successfully adopted for their portrayal.

In the information it gives concerning the Russian people,

and above all that class of the people who needed most to have their condition made known, the most important of Tourgeneff's books is the "Notes of a Sportsman"—the results of personal observation by a spectator at once calm and sympathetic. In the Government of Orel the soil was poor; the villages consisted of straw-roofed huts, huddled side by side for mutual support; the peasants were small and ugly, wore bark shoes, had no trade nor manufactures, and lived by agriculture. But in the adjoining Government of Kalouga the peasants had better land, a little trade, and were far more prosperous. They were tall, had a contented expression of countenance, wore leather boots on Sundays, and purchased their freedom of action by a yearly sum paid to their masters, while their villages contained pine cottages, with plank roofs, standing apart, surrounded by well-built fences. While shooting in these two districts the young Tourgeneff saw both the best and the worst phases of Russian serfdom, but he always observed that characteristic of slavery—the abuse of wealth on one side and the consequent misery on the other. One day he chanced on a couple of peasants fishing. Entering into conversation with one of them, the young sportsman soon drew from him a description of his late master. This man turned out to have been a rich proprietor, living in the greatest luxury, keeping open house, ruining himself and impoverishing his people by the wildest extravagance, but still sustaining the character of a great lord, and exciting the unqualified admiration of his neighbors and servants. The picture described by the peasant is a brilliant one. But presently the other side of the medal is shown. The group by the river side here steps behind them, a wretched old man covered with dust approaches, and the following conversation ensues:

"Hullo, Vlass!" cried Touman, who recognized him at the first glance; "good-day, brother—where have you fallen from?"

"Good-day, Mikhailo Savelitch," replied the peasant, drawing near, "I come from afar."

"And where in the world have you been?" said Touman.

"Well, to Moscow, to see the master."

"Why."

"To ask a great favor of him."

"Come, what was it?"

"To beg him to reduce my dues by two thirds or a half, or else to re-

duce me to servitude. My boy is dead, and all alone I never can pay them."

"Your son is dead?"

"Dead. The good boy was employed as a cab-driver at Moscow, and to tell the truth, he paid my dues for me."

"Well! Your master?" . . .

"The master? the master? . . . he drove me away, saying, 'How dare you come to me! What do you suppose I keep an agent for? Your business is to talk to him. You talk about servitude; and where would you have me put you to service? First pay what you owe.' He was very angry." . . . The peasant spoke so calmly that it seemed as tho he were talking of another man; but a tear fell from his small, bloodshot eyes, and his lips were white.

"You are going home now," asked Touman.

"Where should I go? I must. My wife is there, famished."

"Are you going to see the agent?" asked Touman, observing with some astonishment the calm manner of the peasant.

"Why should I go? Consider that I owe and that I cannot pay."

The passage quoted is simply an example of the manner in which the author hints at, rather than exposes, the social abuses of his country. Sketch follows sketch, professedly relating only the adventures of a sportsman, but really exhibiting, to whomsoever will see, the vices engendered in the higher classes by their absorption of wealth and power, and in the lower classes by their privation of all chance of advancement. Portraits of the *Velmoges* (great lords) and of the *Odnovortsi* (middle class) are nearly as frequent as those of the peasants, and teach the same lessons.

A subject constantly alluded to in the "Notes of a Sportsman," and throughout Tourgeneff's writings, is the separation between the older and younger generation, brought about by the sudden importation into Russia of new ideas—little regarded by the older members of society, but seized upon with avidity by the younger. This is the chief theme of "Fathers and Sons." Nicholas and Paul Petrovitch, who are satisfied with the opinions derived from their own experience, present a striking contrast with Arcadi and Bazarof, who have accepted without reservation the theories of the German materialistic school. The young men adopt the new ideas hastily, violently, because they have no intellectual standards by which to judge them. Their minds are dazzled by these novel and plausible

theories; they push them to extremes and fall into extravagance. The following conversation between the "fathers and sons" forcibly presents the case of both sides:

"Aristocracy, liberalism, principles, progress," repeated Bazarof, meanwhile. "What strange words in our language, and perfectly useless! A true Russian has no use for them."

"What does he need then, according to you? To understand you, we are outside of humanity, outside of its laws. That is too much; the logic of history exacts—"

"What need have we of that kind of logic? We can get on very well without it."

"How?"

"Ah! look here. I think that you do very well without logic in putting a piece of bread in your mouth when you are hungry. What is the good of all these abstractions?"

Paul Petrovitch raised his hands.

"I do not understand you at all! You insult the Russian people. I don't understand that one can help recognizing principles and rules. What then directs you in life?"

"I have already told you, uncle, that we do not recognize any authority," interrupted Arcadi.

"We act in view of what we recognize as useful," added Bazarof; "today it seems to us useful to deny, and we deny."

"Everything?"

"Everything."

"How! Not only art, poetry, but even—I hesitate to say it—"

"Everything," repeated Bazarof, with an inexpressible calmness.

Paul Petrovitch looked at him fixedly; he did not expect such a reply; Arcadi blushed with pleasure.

"Allow me, allow me," interrupted Nicholas Petrovitch; "you deny everything or, to speak more exactly, you destroy everything. . . . Notwithstanding, it is also necessary to rebuild—"

"That does not concern us. . . . It is necessary in the first place to clear off the ground."

Such is Bazarof's "nihilism," and it is no more than modern rationalism run mad. Instead of casting out traditional errors, one by one, according as reason or experience supplied something better to replace them, he would have effaced in a moment the accumulated beliefs of centuries to leave nothing behind. His mistake was to suppose that superstition and error can be banished by a single intellectual effort; the mistake of the present revolutionary party in Russia is the belief

that liberty and civilization can be attained at one blow. Bazarof's "nihilism" had no political signification whatever, but this word, first made famous by Tourgeneff, has since assumed a wholly new meaning: from expressing simply intellectual denial of everything incapable of scientific proof, it has gradually come to stand for enmity to any existing state of affairs.

The novel which deals most particularly with Tourgeneff's views on modern Russian society is "Smoke." In this work he satirized mercilessly the class of rich but ignorant and frivolous nobles who travel over Europe, always boasting of the greatness of Russia and always imitating foreign ways. With equal severity and ridicule are treated the so-called reformers, half-educated, visionary men and women, whose heads are filled with the wildest schemes for the regeneration of Russia, who have neither sufficient knowledge of their country nor sufficient common-sense to understand that all changes for the better must be gradual. If satire could kill folly, there would soon be an end to such scenes as those in General Ratmirof's drawing-room and at Goubaref's reception. "If ten Russians meet together," says the sensible Potoughine, "the conversation immediately turns upon the greatness of Russia and her brilliant future, while in tracing her origin they go back to the eggs of Leda. They squeeze and suck upon and chew this unfortunate subject as boys do india-rubber, and with the same result. They cannot touch upon it without alluding to the corruption of the West. The West touches us on all sides, and how terribly corrupt it is! This would not be so bad if we really did despise it; but no: this is all boasting and falsehood. We cry out against the West, and yet cannot live without its approval." Then Tourgeneff reads his countrymen a severe lesson for boasting when they should be learning, for celebrating Russia in words when they should be making her celebrated by acts. Potoughine relates his observations at the Crystal Palace, in London, where the remarkable productions and inventions of the nations of the world are exhibited. "You see in foreign countries they have nothing to compare to us," he sarcastically observes. And yet, as he walked through the halls of the great exhibition, he was obliged to confess to himself that if any one

nation were to suddenly disappear from the face of the earth and at the same time its original contributions to civilization to be taken from that building, Russia might undergo that fate without making a single change or subtracting a single object. Even the disappearance of the Sandwich Islands would produce more effect, because some lances and canoes designed by their inhabitants would be missed by visitors. But the bark shoes, the knout, and the *samovar*,—the most important productions credited to Russia,—even these were not invented by her. And yet, adds Potoughine, "we continue to dilate on the originality of our art and our national productions. Some young philosophers have even discovered a Russian science, a Russian arithmetic. Two and two make four here as elsewhere, but more completely, it appears."

But a small number of Tourgeneff's works have a political bearing: more commonly they are profound studies of character and passionate love stories, written with a delicacy and vividness that recall Meissonier's pictures. They contain more information regarding Russian men and women than we can obtain from any other source, and their wonderfully natural descriptions of passion introduce the reader to a susceptibility and a violence of feeling which men of English race do not readily understand. Tourgeneff was pre-eminent in the delineation of personages who usually baffle the novelist—men without very salient characteristics either good or bad, who are swayed one way and another by the force of circumstances. It is a testimony to his comprehensiveness of vision and to his fidelity to nature that it is difficult to find in his novels a man whom we are inclined to call either a villain or a hero, altho neither villany nor heroism are wanting. Polozoff, in "Spring Floods," is an utterly degraded man, but his degradation is evidently the result of a long course of self-indulgence. His wife, Maria, is irredeemably bad, and is perhaps the only one of Tourgeneff's creations who may so be called. The difficulty with the usual villain of fiction is that he is a ready-made villain, forced, by the omnipotent novelist, to perform whatever evil act is necessary to the story. But with these ready-made villains Tourgeneff's subtle power has nothing to do. The whole man, with his strength and his weakness, is always there. If a crime is to be

committed, the reader is apprised of the greatness of the temptation; he feels it as tho it assailed himself; he trembles at the thought that under the same circumstances he too might be unable to resist. Sanin, in "Spring Floods," ruins his own happiness for life and breaks the heart of his betrothed with unhesitating cruelty. He has not the strength to resist a terrible temptation, but the reader feels that his natural impulses are good and foresees his subsequent remorse. Tourgeneff's scientific analysis of the human mind is nowhere more prominent than in the wonderful psychological study of Dimitri Roudine—a man in words so eloquent, in acts so impotent, sincerely aiming at lofty standards but incapable of attaining any in practice, so richly gifted and yet such a poor creature. In "Fathers and Sons" the shades of difference in character are remarkable. Nicholas, the plain, unsophisticated Russian gentleman; Paul, his brother, so like, and yet so disguised by his foreign polish; Bazarof, the out-and-out Radical, all intellect and coarse materialism; Arcadi, his disciple, with less mind and more refinement. Tourgeneff's power of giving life to his characters is admirably illustrated by Bazarof. This man stands for an intellectual principle, and would be unnaturally cold were it not for the bursts of uncontrollable passion called forth by his intercourse with Mme. Odintsof. That Tourgeneff attempted successfully the delineation of a second Lear is testimony enough to his genius. Unlike other novelists, he was equally successful in dealing with either sex. Liza, his most lovely heroine, the good Tatiana, the beautiful, girlish Gemma, the calm Alexandra, leave as little to be desired as the men. In Irene, he studied the woman in whom prudence takes the place of principle; in Maria Nicolaevna, the woman absolutely without principle, who loves evil and cruelty for their own sake. The latter, with her bewitching beauty and remorseless wickedness, is an extraordinary conception: most readers will believe and all will hope that she is an impossible one.

A species of "love" to be met with in Tourgeneff's novels is a passion which men of the Anglo-Saxon race know nothing of—at least under that name. It masters its victims in a moment: duty, family ties, honor, previous affection, are of no avail against it. Sanin loves Gemma, his affianced wife, and yet in

an instant, without warning, he completely loses his head and heart for a woman, beautiful it is true, but whom he knows to be vicious and without a single title to his regard. The passion meant by the English word love will do great things either good or bad, but it necessarily involves respect for its object and some degree of permanency. But this sudden, uncontrollable *amour*, described by Tourgeneff as by so many French novelists, is not love as we understand the word, but a momentary self-abandonment to physical impulse. The novel "Spring Floods," of which it forms the subject, is among the most grievously sad and repulsive stories ever written. The power which Maria Nicolaevna exercises over Sanin while he is at the time in love with another woman would seem fabulous in an English work.

Dimitri Roudine, whose life and fate were of the most tragic, proposed to himself as his *magnum opus* an article on "Tragedy in Life and in Art." Such, indeed, is the subject of Tourgeneff's writings. As we run over the list of his best-known works —"Dimitri Roudine," "Liza," "Smoke," "Spring Floods," "Fathers and Sons," "Lear of the Steppe," "Three Meetings," "The Superfluous Man"—the memories recalled are all of the saddest. It is true that relief is sometimes given by delicate satire and by brilliant sallies of wit. But, however varied the story, however different the characters, the tragic in life and in art is still the theme. Altho a book by Tourgeneff is sure to give pain, it is impossible, once begun, to lay it aside. We may dread the pang that the end of the volume will bring, but the fascination of the author's literary art leads us irresistibly onward.

The chief charm of Tourgeneff's works is to be found in the exquisitely artistic form in which his conceptions are clothed. Some other novelists interest us quite as much in the stories they have to tell and in the characters they have to describe. But in form and in composition—in pure literary workmanship —it is difficult to name any writer who is thoroughly his equal. This artistic quality is prominent where it would be least expected. The "Notes of a Sportsman" had a didactic aim. At nearly the same time, it was attempting in autocratic Russia what "Uncle Tom's Cabin" was attempting in Republican America—the creation of anti-slavery sentiment. Yet, while

the political object of "Uncle Tom's Cabin" is always present, while Mrs. Stowe is always pleading the cause of the black man, the "Notes of a Sportsman" is simply a work of art; its author never denounces, but simply shows a picture and allows the spectator to draw his own conclusions. Tourgeneff never expressly declared his enmity to serfdom. There is no trace in the "Notes" of a partisan's feeling nor of a reformer's enthusiasm. The book was the work simply of an artist. It had a great influence on the cause of reform, but its author was not a reformer in the sense that Mrs. Stowe and Dostoyevsky were such.

Tourgeneff's novels are exceedingly short—any one of them about one third the size of an ordinary English novel; but in this small compass an immense deal of matter is compressed. It is impossible to skip. The concentration of thought is so great that a slight omission may destroy the continuity. Each word has its part to perform in the presentation of the main idea of the book; there are always enough, but none could be cut out without injury. Tourgeneff wrote as an artist makes an ink-drawing: every stroke of the pen must tell. As a result, the reader's interest is kept up ceaselessly. Yet it is impossible to read very fast. Each phrase demands consideration. The reader often feels inclined to stop and to think over a paragraph, for, after all, what is commonly spread over pages and enforced by repetition is here compressed into a few lines. This extraordinary concentration of thought, so pleasurably shared by the reader, is admirably supplemented by the author's methods of composition. When he desires to place a scene before the mind, every adjunct to the chief figure, every object present, has its place in the general effect. Be it a sportsman resting on a hot day—we are made to feel the heat of the still air, the silence of the motionless leaves, to see the panting dog's dripping tongue lolling out at full length. The subtle influence of nature on the mental and physical condition of men is always powerfully traced. A love passage, as of Dimitri and Nathalie, is intensified by the state of the atmosphere, the stillness of twilight, the perfumes of vegetation. It is thought by some that Tourgeneff is deficient in the interest of plot. And it is true that he gives little complication of incident to excite curi-

osity regarding the *dénoûement*. But to persons who wish for something more than the excitement of an involved story, Tourgeneff's plot is of the most attractive kind. It consists in the development of character rather than of incident. Instead of following the complications resulting from accidental circumstances, the reader traces the attainment of the end through the infinitely more interesting conflicts of motives and passions.

In accord with Tourgeneff's artistic composition is the manner in which he makes his characters known. There are no long descriptions of men. A few words of preface, and the acquaintance comes of itself; as with persons we meet and talk with, by their actions, gestures, and words. Affectations are described very neatly: "Karchagine affected a grand manner, which he thought full of majesty. He had the air of his own statue erected by popular subscription."

For Tourgeneff's skill in sketching a type take this:

> Our dignitaries generally like to stupefy their inferiors; the means to which they have recourse to produce this effect are quite various. Here is one which is very often used, and is "quite a favorite," as the English say. The dignitary all at once ceases to understand the most simple words and seems attacked with deafness; he asks, for instance, the day of the week; they reply to him respectfully:
>
> "Friday, your excellency."
>
> "Hey? What? What is that? What do you say?" replies the dignitary, with effort.
>
> "To-day is Friday, your excellency."
>
> "How? What? What is Friday? What Friday?"
>
> "Friday, your excellency, the day of the week."
>
> "Come, do you pretend to give me a lesson?"
>
> Matvei Ilitch, with all his liberalism, was yet a dignitary of this kind.

Tourgeneff shows a wide acquaintance with foreign literature. His eldest brother, his senior by nearly forty years, had known Bonaparte and Talleyrand, had met Lord Byron on the Rhine, had been intimate with Miss Edgeworth, and had been the guest of Sir Walter Scott at Abbotsford. For Miss Edgeworth's writings the elder Tourgeneff had a great admiration. At his country house in the Ural mountains he used to translate passages from her sketches of the Irish peasantry, and it is said that from these readings the young Ivan first derived the idea of his "Notes of a Sportsman." Mention of English

and American authors are frequent in his novels. In "Smoke" he makes one of his characters tell a curious anecdote of Mrs. Stowe. "Tenteleef always has been a terrible tyrant, you know, tho he calls himself a friend of emancipation. One day he was in a drawing-room in Paris, when Mrs. Beecher Stowe, the author of 'Uncle Tom's Cabin,' entered. Being exceedingly vain, Tenteleef asked the host to present him to Mrs. Stowe. As soon as she heard his name, she rebuked him with these words: 'How dare you show yourself before the author of "Uncle Tom's Cabin!" Leave at once!' and she gave him a slap in the face. And what do you think? Tenteleef caught up his hat and ran away." On one page in "Fathers and Sons" reference is made to George Sand, Emerson, and Fenimore Cooper. Elsewhere we will meet with Ann Radcliffe, Richardson's Lovelace, the Last of the Mohicans, Buckle, and many others, even the pre-Shaksperean Nash and Greene.

BAYARD TUCKERMAN.

THE "FOREIGN COMPETITIVE PAUPER LABOR" ARGUMENT FOR PROTECTION.

TO all who bestow any attention on the course of public events, it must be evident that the so-called "*Foreign Competitive Pauper Labor*" argument is hereafter to be more than ever relied upon to defend and sustain the cause of protection in the United States, and that the advocates and believers in protection regard such argument as not only all-sufficient for this purpose, but also as wholly unanswerable. Or, to state the case more plainly and in detail, the claim is set up in warrant and justification of a continued high-tariff policy, that the difference in wages in favor of competitive foreign producers constitutes a good and sufficient reason why compensating protective duties should be levied on their resulting products when imported into this country; and the assertion is further constantly and conjointly made, that unless such duties continue to be levied, the American manufacturer will be unable to withstand foreign competition; that our workshops and factories will be closed, and our workmen and their families made dependent on public charity. It stands to reason, therefore, that the issue here involved can be second to none in importance to which the attention of the people of the United States can now be directed; and further, that the accusation, which the position of the advocates of protection inferentially but necessarily make against all those who favor an abatement of the present tariff is so serious, as to rightfully subject the latter, if true, to the brand of unmitigated public scorn and infamy. But is it true? And with a view of helping the public in some degree to intelligently determine for themselves whether it is or not, it is here proposed to attempt to review the whole matter, and present the facts in

the case, as clearly and impartially as is possible for one who frankly acknowledges at the outset that he enters upon the discussion with a profound conviction that the assertions and implied accusations of the protectionists in the matter have not only nothing whatever of a substantial basis to rest upon, but that the continuance of the policy they advocate will inevitably and rapidly produce the very result they deprecate: and indeed has already done so, to a very considerable extent. Before doing so, however, it may profit to ask attention to certain incidents connected with the subject of an historical interest. Thus, in a little essay recently published (1883) by Mr. Taussig of Harvard University,—not in advocacy of either free trade or protection, but as a contribution to economic history,—it is shown that during the first half of the period of the existence of the United States as a nation the demand for protection and the claim that it was necessary was based almost exclusively upon the "infant industry" argument, or the asserted necessity of fostering domestic industries in their incipiency, the eventual cheapening of the resulting products being the chief advantage that it was proposed to compass; and that the pauper labor argument never put in an appearance. But about the year 1840 it began to be seen that American manufactures could no longer consistently claim protection on the ground of being infant industries, and that a new position must be taken; and then for the first time, says Mr. Taussig, the claim "that American labor should be protected from the competition of less highly-paid foreign labor" was brought forward, and has ever since "remained the chief consideration impressed upon the popular mind in connection with the advocacy of a tariff for protection."

Recurring next to the subject more immediately under discussion, let it be assumed, for the sake of argument, that all that the advocates of protection assert concerning the absolutely and (as compared with the United States) the relatively low wages paid for labor in the different departments of foreign industry is in all respects correct; and next let it further be granted, that any real reduction in the standard of wages, and consequently of living, in the United States is most undesirable—and then what of it? Does it necessarily follow, as all advocates of protection invariably assume and assert, that the maintenance of a high tariff on for-

eign importations will prevent or contribute to prevent the reduction of the wages of American labor and their assimilation to the so-called pauper-labor rates of foreign countries? Or, on the contrary, is it not the real truth, that while "protection" has never exerted anything more than a temporary influence in enhancing wages, it is now, in virtue of influences clearly and unmistakably referable to its policy, directly and powerfully operating in a manner exactly the reverse of what is popularly believed—or, in other words, to reduce the wages of labor in this country, and cause them to approximate to the European standard? Here again is the issue involved restated clearly and plainly; and as it is not for the interest of a single man or woman in the United States to ignore it or be misinformed, let us therefore reason about it.

Wages in the United States are, as a general rule, unquestionably higher than in Europe; and mainly for the following reason. Owing to our great natural advantages, a given amount of labor, intelligently applied, will here yield a greater or better result than in almost any other country. It has always been so, ever since the first settlements within our territory, and has been the main cause of the tide of immigration that for the last two hundred years has flowed hitherward. Hamilton, in his celebrated report on manufactures, made before any tariff on the imports of foreign merchandise into the United States was enacted, notices the fact that wages for similar employments were as a rule higher in this country than in Europe; but he considered this as no real obstacle in the way of our successful establishment of domestic manufactures, for he says "the undertakers" —meaning thereby the manufacturers—"can afford to pay them." And that this assertion embodies a general truth would seem to follow from the following considerations:

Wages are labor's share of product, and in every healthy business are ultimately paid out of product. No employer of labor can continue for any great length of time to pay high wages unless his product is large. If it is not, and he attempts it, it is only a question of time when his affairs will be wound up by the sheriff. Or, on the other hand, if a high rate of wages continues to be permanently paid in any industry and in any country, it is in itself proof positive that the product of labor is large, that the

laborer is entitled to a generous share of it, and that the employer can afford to give it him. And if to-morrow our tariff was swept out of existence, this natural advantage which, supposing the same skill and intelligence, is the sole advantage which the American laborer has over his foreign competitor, would not be diminished to the extent of a fraction of an iota. Consider, for example, the American agriculturist. He pays higher wages than his foreign competitor. In fact, the differences between the wages paid in agriculture in the United States and Europe are greater than in any other form of industry. The tariff cannot help him, but by increasing the cost of all his instrumentalities of production, greatly injures him. With a surplus product in excess of any home demand to be disposed of, no amount of other domestic industry can determine his prices. How then can he undersell all the other nations, and at the same time greatly prosper individually? Simply because of his natural advantages of sun, soil, and climate, aided by cheap transportation and the use of ingenious machinery, which combined give him a greater product in return for his labor than can be obtained by the laborers in similar competitive industries in any other country. What has he to ask of government other than it will interfere with him to the least possible extent?

In further illustration, compare the condition of Switzerland with that of the United States. No people are more industrious, frugal and moral than the Swiss. They are the Yankees of the Old World. No one talks in Switzerland of abridging the hours of labor in the interest of the laborer; but whenever the hand finds anything to do, it begins to do it with the rising of the sun, and keeps doing with all its might until not "the going down thereof," but until the darkness of the night makes further effort impracticable. But notwithstanding all this hard work and frugal living, Switzerland and her people are poor: wages are low, and the comforts and luxuries attainable by the masses are comparatively few. On the other hand, the people of the United States, working fewer hours and less industriously than the Swiss, and living as a rule wastefully and uneconomically, are as a whole, the richest people on the face of the globe. What is the explanation of this seeming paradox? There is but one. Nature has been niggardly in her bounties to Switzerland; and

lavish to the United States; with the result, that while the smallest product, in proportion to the labor and capital applied, is the law of production in the former country, the largest product at the smallest cost is the law for the latter. In short, great resources and large product are natural concomitants; and under such circumstances there is only one thing, under a government that affords adequate protection to life and property, which can prevent capital and labor from securing large rewards, *i.e.*, profits and wages—and that is the diversion of their products from the channels in which they would naturally flow, by destructive taxation; to which may be added this further corollary, that all taxation is destructive which is excessive and not restricted to the legitimate requirements of the State.

Take another case in point. Wages in England, in every industry, are much higher than in the continental states of Europe. In the cotton-manufacturing industries they are from 30 to 50 per cent higher than in France, Belgium, and Germany; and an English cotton operative receives more wages in a week than an operative similarly employed in Russia can earn in a month.

Now which of these countries has the cheapest labor? The question may be answered by asking in return: Does England seek protection against the competition of the continental states or is it the continental states that demand protection against England?—and by the further statement of fact, namely, that just in proportion as the wages in any country decrease, the demand as a general rule in these same countries for protection to domestic industries increases, as well as the dread of British competition. In short, instead of high industrial remuneration being evidence of high cost of production in this country, it is direct evidence of a low cost of production; and in place of being an argument in favor of the necessity of protection, it is a demonstration that none is needed. Furthermore, all experience shows that as the *per capita* results of production become greater, the profits of capital always tend to a less share of the product; and that this must be so will be apparent if one reflects that the more effective the capital, the lesser the proportion which the capitalist will need (and under competition can take) to make good interest upon his investment. Investigations made by Mr. Edward Atkinson show that, taking

the experience of Massachusetts as a basis for reasoning, "nine parts in every hundred of product are divided among those who do daily work for their daily bread in that State; and that ten parts in every hundred are the utmost that can ever be set aside for the maintenance or increase of capital or wealth." As the product increases, labor therefore, in the absence of disturbing causes, must get a larger share—or in other words, wages will rise; or, to put the case differently, large wages can only come from abundance, and not from scarcity.

High wages, then, are the normal result of low cost, and low cost is the normal result in turn of intelligence, conjoined with good machinery, applied to great resources for production. Wages in the United States, then, are and ought to be high, because here are the above conditions in a pre-eminent degree.[1]

[1] Mr. Edwin Chadwick, the distinguished English economist, in a recent essay on "Employers' Liability for Accidents to Workpeople," furnishes the following very interesting illustrations, drawn from British industrial experiences, confirmatory of the above propositions:

"A coal-cutting machine," he says, "has been invented, by which one man and a boy will do better and more safely the work of twenty colliers; that is to say, at present in thick seams. I some time ago asked a large colliery owner whether he knew of the machine, and doubted that it would do the work. He did know of it, and did not doubt it would work; but they got on as they did, and change was troublesome. Recently I asked him whether they, the coal-owners, were not sufficiently pressed to have recourse to the machine. 'No, I do not think we are,' was the answer. 'I dare say that the Yankees will use it first, and then we shall follow them.' In Nottingham, the introduction of more complex and more costly machines for the manufacture of lace has, while economizing labor, augmented wages to the extent of over 100 per cent. I asked a manufacturer of lace whether this large machine could not be worked at the common lower wages by any of the workers of the old machine? 'Yes, it might,' was the answer, 'but the capital invested in the new machinery is very large, and if from drunkenness or misconduct anything happened to the machine, the consequence would be very serious.' Instead of taking any man out of the streets, as might be done with the low-priced machine, he (the employer) found it necessary to go abroad and look for one of better condition, and for such a one higher wages must be given."

Mr. Chadwick quotes an observation made to him by Sir Joseph Whitworth, the eminent English mechanical engineer and inventor, that "he cannot *afford* to have his machines worked with cheap and poor labor; and also states that the English shoe manufacturers, who have recently introduced the ingenious American shoe-manufacturing machinery, tell him that it paid them the best to work these machines with wages that are at least double those which were paid to the shoemakers under the old hand system.

But passing from these general conclusions, which may not command the assent of the reader without some careful reflection, it is proposed to next ask attention to the present industrial condition of the country, and to the action of certain influences on wages, the profits of capital, and the demand for domestic labor, which would seem to require to be merely pointed out to command universal recognition and acceptance.

The daily course of events is fast educating our people up to a comprehension of the fact, which economists have long been predicting, that owing to our great natural resources, our rapidly increasing population, the increased use and product of machinery and the energy of our people, the power of domestic production continually tends to be, and in most departments of industry is, far in excess of the power of domestic consumption. In the case of agriculture the fact is so obvious that no confirmatory evidence is necessary; but if any is needed, it is all-sufficient to call attention to the enormous surplus of food and cotton which we now export to other countries, and to the circumstance that these exports during the last ten years have increased out of all proportion to any increase of our home pop-

"At the beginning of this century the cost of spinning a pound of yarn (No. 40) was a shilling, and the wages divided amongst the workers—men, women and children—did not average more than 4s. 6d. a week, or 13s. 6d. per week per family of three. Recently, the cost of spinning a pound of yarn was three half-pence; but the wages have advanced to 40s. per week. In a paper by M. Poulin, a manufacturer at Rheims, France, it appears that in the wool manufacture there, the progress of wages and machinery have been similar. In 1816 the wages were 1f. 50c. per diem; they are now 5f. The price of weaving a metre of merino cloth was then 16f.; it is now 1f. 45c."

"I might at considerable extent adduce the experience of Lancashire, that as a rule the pressure of manufacturing distress has stimulated the adoption of labor-saving machinery and putting more and more capital or machinery under the same hands, *at increased wages*, attended by reduced costs of production, by extended consumption at reduced prices, and restored and augmented profits of capital."

"Finally," concludes Mr. Chadwick, "it may be noted that whilst all this progress has been made, population, which should have diminished, has been largely increased by the progress of labor-saving machinery. At the same time the profits of capital have largely diminished. At the present time capital is being driven to subsist on very small profits, and the quickened turn-over of large capital. Of late, a poor pinched and distressed capitalist would only get for a loan of £1000 ($5000) of his capital (accummulated labor) for one day one shilling, or a third of the *improved* day's wages of a spinner."

ulation. And in respect to our so-called manufacturing industries it is only necessary to refer to general complaint that business, tho large (as it necessarily must be to supply the needs of a nation of fifty-six millions), is, through excessive competition, conducted with little profit; that a very large percentage of our manufactures, and notably those of iron, cotton, and wool, which enjoy high protection, have suspended or curtailed their operations; that manufacturers in certain lines of the two last-named articles especially have only been able to dispose of their surplus stocks by forced sales at auction and at prices less than the cost of production; that failures and fires (the latter the inevitable indicator and concomitant of bad times) are increasing at a rapid and alarming rate; that the wages of manufacturing operatives almost everywhere throughout the country are undergoing extensive and as the manufacturers claim, enforced reductions; that the opportunities for employment are conjointly becoming limited; and finally, that artisans especially imported from foreign countries to work in certain employments (*e.g.*, glass-making) in the United States are returning to Europe, with a view of bettering their condition.[1]

The situation is extraordinary and anomalous, but only such as might naturally be expected from the circumstances. It needs but a superficial glance at our tables of exports to see that, comparatively speaking, we have but little other than the

[1] The following opinions concerning the present condition of the iron and steel industries of the United States have been communicated to the *New York Tribune* by Andrew Carnegie, the well-known iron manufacturer of Pennsylvania, under date of September 24, 1883:

"Much as I regret to say it, I believe that matters will grow worse for some months before manufacturing interests can reach a profitable business. A much more decided curtailment of production must take place before there can be any improvement. This will be brought about naturally by the prevalence of such ruinous prices as will compel manufacturers to stop producing goods in advance of the country's needs. But as great loss is entailed by curtailment of production, the works are kept running to their full capacity, altho prices have fallen to figures which leave even those manufacturers who have unusually favorable facilities little or no profit, and entail a positive loss upon the average manufacturer. I think the wages paid at the (iron) mills on the seaboard of the United States to-day are about as low as men can be expected to take. In the West, notwithstanding a recent agreement of the men to accept a reduction of 30 per cent, it now seems probable, from the very unsatisfactory outlook, that they will have to be asked to work for still less."

domestic market, and not the whole of that, for our vast and varied manufactured product—the ratio of exports for the years 1878–80 being only 12.5 of manufactured to 87.5 of unmanufactured commodities, or $102,246,000 of the former to $721,700,000 of the latter. And to make up even this beggarly 12 per cent it was necessary to count in lumber, coal, and leather as manufactured exports. Now it simply stands to reason that if the manufacturing industries of the United States are to be mainly limited to the requirements of a domestic market, that their growth must be also limited, and far below their normal capacity and tendencies; and if, under such limitations, or arrest of industrial growth, we are to have poured in upon us annually from half a million to seven hundred thousand immigrants,—mainly laborers in the prime of life,—and an annual increase of our population from natural causes of about 3 per cent per annum, it would seem also clear that there must be extensive reductions in the wages of American laborers; for with two, three, or more sellers of labor for every one buyer, the buyer will fix the price; and the price which the buyer or American employer will strive to fix, and indeed the price which his necessities will compel him to fix, if he is going to extend his operations and avoid producing at a loss, will be such as will enable him to produce equally cheap with his foreign competitor. A continuation of the present national fiscal policy, or in other words a continuation of our present high-tariff policy, inevitably means, therefore, low wages, and the degradation and impoverishment of the masses, or ensures the very results which it is claimed the protective policy is certain to avert. And there is no need further of adopting in any degree, in regard to such a conclusion, this line of prophecy, for the results in question have in a large degree already come, and in the absence of reform, have come to stay.[1]

[1] The extent, however, to which many of even the most intelligent of American citizens fail to recognize the condition of affairs into which as a nation we are drifting, finds a striking illustration in the following reported extract of a recent speech by Hon. J. B. Foraker, one of the candidates for Governor in the State of Ohio, during the recent political canvass: "The laborer," he says, "in this country is a part of the governing power. He is a voter. He has a voice in the government. Aside, therefore, from all humanitarian reasons, we want him to have a chance for self-elevation. We want him to eat meat and be comfortable.

The main reason why American manufacturers cannot dispose of their surplus products by exportation and sale of the same in foreign markets, admits of a ready understanding, if one will only keep in view and reflect upon the following facts: 1st, from 80 to 90 per cent of all our manufactures exist because they must as a condition of our civilization, and because no foreign products of like kind can be imported. Any one may abundantly satisfy himself of this by analyzing the history or origin of the bulk of the commodities that pass him on the streets of any busy community, or are exposed for sale at the marts of trade; 2d, possibly from 10 to 20 per cent are in a greater or less degree subject to foreign competition; 3d, in the effort to protect this 10 to 20 per cent, through the agency of taxation and restrictions on exchanges, the cost of all the products of our entire industry is enhanced to such an extent

And for this reason it is that we say if we cannot go into the markets of the world without being subjected to an unjust and degrading competition, we will make ourselves independent of those markets by making markets of our own. Instead of sending our raw cotton across the ocean, to be there manufactured and sent back to us, we will have cotton mills here. We will mine our own coal, develop our own minerals, manufacture our own iron and steel, build our own railroads with our own products, and thus have home markets and domestic commerce." Now it is not the intent of the writer to say anything discourteous of a man of such high character as Judge Foraker, but it is nevertheless true, that if the above remarks are rightfully attributed to him, he certainly had very little idea of what he was talking about; for the trouble of to-day with our industry and labor is that as a nation we have too exclusively the very home markets he thinks so desirable, and are producing more than we can ourselves consume. We export at present more than three fifths of our annual product of raw cotton. Suppose, instead of sending this enormous quantity "across the ocean," we erect mills, as proposed, and spin it ourselves. What will then be done with the product of cloth in excess of domestic want? It must be sold abroad, if sold at all; and if sold abroad, the people who buy must pay for it in turn with the products of their labor, for they have nothing else to buy with. But this means foreign commerce and international trade, which Judge Foraker thinks we can profitably get along without. Again, we raise annually many millions of bushels of cereals in excess of any possible demand for domestic consumption; and unless this excess can be sold abroad, it will either not be raised, or, if raised, will rot on the ground; and what, under such a condition of affairs, would be the avenues of employment open to laborers in mining coal, smelting iron, or building railroads and agricultural machinery? In short, the system which Judge Foraker proposes is the Chinese system of inclusion and exclusion, which the Chinese are preparing to abandon; and his remedy more of the hair of the same dog that has already sorely bitten us.

that exports only exist in cases where our natural advantages for production are so great as to overcome the increase of cost thus artificially and unnaturally created.[1] And as confirmatory evidence, if not absolute demonstration, of the truth of this statement, attention is here asked to the results of an investigation in the last Report (1883) of the Massachusetts "Bureau of Labor Statistics," which altho constituting a contribution to economic science of surpassing interest, and of such a nature as ought to startle every fair-minded American citizen who has been educated to believe that our present high protective policy really works for the benefit of domestic labor and capital, has thus far, very curiously, almost entirely escaped public attention. In this report a very careful analysis is made of the comparative condition of 2240 manufacturing establishments in Massachusetts, representing 21 different industries and 207,798 employees, for the years 1875 and 1880 respectively; the elements of the analy-

[1] The following tables and estimates, deduced from the census of 1880, will afford approximately correct data for estimating the method in which the burden of the taxation imposed to maintain the protective policy of the United States distributes itself among population, occupations, and professions:

OCCUPATIONS OF THE PEOPLE OF THE UNITED STATES IN 1880.

Agriculture	7,670,493
Professional and personal service	4,074,238
Trade and transportation	1,810,256
Manufacturing, mechanical, and mining industries	3,837,112
Total	17,392,099
Proportion engaged in agriculture who may possibly be subjected to foreign competition in some manner—mainly the growers of sugar and of rice, and of wool possibly, to a very small extent, about 5 per cent, or	400,000
Proportion engaged in manufacturing, mechanical, and mining industries, who can be in part but not wholly subjected to foreign competition—large estimate based on calculation	837,112
Total	1,237,112
Proportion that are heavily taxed, and placed at a disadvantage in agriculture, manufactures, mechanical pursuits, and in mining, by the protective system	16,154,989
Proportion in whose favor the protective system is invoked, but whose wages are not lower than in other employments	1,237,112

sis being the census returns made to the Federal and State Governments respecting capital, laborers, value of stock used and of product, cost of management, profits, etc., in the years specified, which are acknowledged to be as reliable as any such returns possibly can be, and as probably superior to any similar statistics ever before collected. The 2240 establishments also employed 53 per cent of the invested capital, paid 58 per cent of wages, used 57 per cent of the stock, and produced 57 per cent of the entire manufactures of the State. Premising further that Massachusetts practically produces none of the stock or raw material which its manufacturers use, but buys almost everything from beyond her borders, the investigation shows that the stock—metals, fibres, leather, coal, lumber, chemicals, and the like—used in manufacturing in that State in 1880, cost 11.52 per cent more than it did in 1875; and that the manufacturers, as the report expresses it, "counterbalanced" this result by reducing the wages of their employees during the period involved to the extent, on an average, of 4.35 per cent, and by submitting to a reduction of their net profit of 7.19 per cent. Now, when it is remembered that the prices of manufacturers' raw materials have notably declined in all foreign competitive countries during the period covered by the Massachusetts analysis; that the wages of foreign competitive labor during the same time have also very generally advanced; and that, apart from possible differences in the wages of labor, Massachusetts industries, in comparison with foreign industries, are not only not subjected to any special disabilities, but on the contrary enjoy many advantages—it seems clear that the extraordinary results under consideration cannot be referred to any other agency than that of our present national fiscal policy, which, as above pointed out, does by excessive taxation and restriction of exchanges inevitably enhance the cost of all manufactured commodities and their elements. And if other evidence in support of this conclusion were needed, it is so abundant that the only difficulty attendant is to decide what to present; as, for example, the fact brought out before the Massachusetts Legislature at its last session (1883), that in respect to certain shoes, for which there might naturally be a large domestic demand to supply the requirements of tropical countries, the cost of the Massachusetts-made shoes is enhanced to

the extent of 60 cents per pair before the manufacture even begins, by reason of the taxes on their constituent materials; that cordage manufactured in New York of imported materials (which the country cannot produce) can be, and actually is, through a rebate of duties, sent to China and Brazil and sold there for the equipment of foreign ships, cheaper than an American ship-owner can buy it within one mile of the factory where it is made; and that, for the same reason, salmon packed in tin on the Columbia River can be transported by rail and sold cheaper to the people of New Brunswick for food than the people of Maine, many miles farther east, can buy it. Indeed, were it not joking on a serious subject, there could be no more fitting comment on the situation than to recall the lines of "Truthful James" when he says:

> "Then I looked up at Nye,
> And he gazed upon me;
> And he rose with a sigh,
> And said, 'Can this be?
> We are ruined by Chinese (foreign) cheap labor!'"

It is not overlooked in connection with this discussion that the complaint of overproduction, restricted markets, and no profits in business, by reason of excessive competition, is at this time general in all commercial countries, and especially in Great Britain, where protection as an element of disturbance is wanting; and that, therefore, the reference here made of the existing unsatisfactory state of affairs in the United States to our national fiscal policy may seem to not a few to be unsound both in respect to facts and logic. That there have been great disturbances in the work of production and exchange of most countries in recent years, and, taking the world throughout, most notably since 1873, and that these disturbances still continue, is not to be denied. And the explanation of it is referable, in the opinion of the writer, in a very large degree to a class of agencies which have not thus far received the attention from economists and publicists which they merit; namely, the wonderful changes which through invention and discovery have recently taken place in the world's method of doing its work of production and distribution. These changes have been accompanied with immense losses of capital and great disturbances of

labor, in which the United States has participated and suffered in common with other countries. That their ultimate outcome, however, is to be good, cannot be doubted; for by an economic law, which Mr. Atkinson, of Boston, more than others, has recognized and formulated, all material progress is affected through the destruction of capital by invention and discovery, and that the rapidity of such destruction is the best indicator of the rapidity of progress.[1] But in the readjustment by nations of their industries to the new circumstances, which is still going on and is yet very far from complete, the "law of the survival of the fittest" is going to fully assert itself; and in this struggle the United States, by reason of possessing as no other nation does, the conditions for the cheapest production of the great staple commodities of the world's consumption, ought to prove itself the fittest, and dominate in "manufactures" as it now dominates in respect to the production of cotton and food products. Why such a result has not yet been attained; why in the readjustment of industries to the new conditions, the United States suffers disproportionately, or even as much as her chief industrial competitor, Great Britain; and why under the present national fiscal policy there is little chance for improvement—finds a sufficient explanation and answer in the results of the Massachusetts industrial investigation before referred to, even without taking into account a vast amount of other corresponding and confirmatory evidence.[2]

[1] Every man who is trying to make some new labor-saving invention or discovery is trying at the same time to practically destroy the value of previously accumulated labor or capital. If an invention could be made to-morrow which, at no greater cost, could spin or weave ten per cent more of cotton fibre in a given time than is now practicable, all the existing cotton machinery of the world, now representing hundreds of millions of dollars of expenditure, would be worth little more than old metal. By the discovery within the last decade of a method of manufacturing the coloring principle of madder (the principal coloring material used in printing calicoes), three or four factories in Germany and England employing but a few hundred men were substituted for hundreds of thousands of acres of land and thousands of laborers which had been before devoted to the cultivation of the madder plant. So also the construction of the Suez Canal is said to have practically rendered worthless over 2,000,000 tons of British shipping which, built for the India trade *via* the Cape of Good Hope and not fitted for the canal, was no longer wanted.

[2] A recent writer in the British *Boot and Shoe Journal*, after noticing the testimony given before the Massachusetts Legislature last winter, to the effect

Coming back now more directly to the "pauper-labor" argument: there is no question that there is a great amount of poorly paid, half-starved labor in Europe and other countries. But what, let us inquire, is its true relation, from a purely practical, business point of view, to the laborers and industries of the United States? Apart from agriculture, in the sphere of which industry we have no formidable competitors, inasmuch as we can profitably undersell the products of the poorest paid labor in the world,—the peasants of Russia and Hungary, the fellahs of Egypt, and the ryots of India,—the dreaded pauper of foreign countries is engaged mainly in handicraft, as contra-distinguished from machinery manufacturing; as, for example, in the manufacture of pottery, where the laborer works almost exactly as did his predecessor four thousand years ago; or in the case of silk-ribbon weavers, whom a recent correspondent of the New York *Tribune* describes as operating their hand-looms in poor, ill-ventilated cottages, and in the same rooms in which the operatives eat and sleep. And apart from pottery and silk, a great variety of other products manufactured or produced under similar conditions might be mentioned. In the case of Europe, the people who work at these handicrafts live for the most part in the most densely populated districts, where all natural advantages and opportunities for employment have long ago been exhausted, and where the moral inertia consequent on lack of intelligence or means is an almost insuperable obstacle in the way of any attempt on the part of the laborer to improve his situation by engaging in other pursuits or by emigration. Under such circumstances wages are undoubtedly very low, and the protectionist, in view of this fact,

that the existing capital and labor at present engaged in the manufacture of shoes in the United States is sufficient, if fully employed for nine months, to supply any current market demand for the entire year, the recent failures in the shoe industry, and the general tendency to a reduction of wages in this and every other branch of industry in the United States, thus pertinently comments on the situation: "One may here [England] ask, Where are the advantages and disadvantages of protection to the shoe trade? We have in this country [England] certainly not so much trade as could be done, but, nevertheless, we have a trade which exists all the year round; we have in addition a considerable export trade, and the wages of our workmen have advanced rather than declined. Our cousins across the Atlantic have six or eight months' home trade, no export, and a falling labor market. Surely the comparison should be deterrent enough."

asks us, with a sort of "now-I-have-got-you air," how can we, apart from the protection afforded by the tariff, enter into successful competition with them, except by bringing down the wages of our laborers to a level with the wages of these paupers? But, in the name of common-sense, why should we as a nation desire to attempt any such competition? What possible reason or inducement is there for wanting to introduce these handicraft industries into this country, and of attempting to keep them alive by means of enormous taxes levied under the tariff upon the whole people,—as, for example, 60 per cent upon silks, and from 60 to 100 per cent on earthenware and crockery,—when we can buy all we want of these products with a very small part of the excess of our cotton and grain; and which excess, it ought to be especially borne in mind, if not sent out of the country and exchanged for some products of foreign labor, will either not be raised, or if raised, will rot in the ground? The main thing which pauper laborers in Europe and everywhere else want is food; food beyond everything else, for they are starving. And when it is proclaimed, with real or feigned fright and horror, by political orators and partisans, that these people are willing to work for fifteen or twenty cents per day, the proclamation means that they are willing to give the results of each and every day of their hard and often disagreeable and degrading labor, in making things which the American agriculturist wants and cannot advantageously produce himself, for one fourth of a bushel of wheat, one half a bushel of corn, two pounds of beef, or three of pork or lard, products which represent but a fraction of a day's labor in the United States. For this is the basis on which the pauper laborer of foreign countries, working for fifteen to twenty cents per day, is going to exchange with us, if he exchanges at all. Certainly it would seem that there is nothing which the agricultural interest of the United States, which represents directly or indirectly three fourths of our entire population, could do to profit itself more than to encourage such exchanges.

Consider next the relation of this same bugbear of foreign competitive pauper labor to such of our manufacturing industries as rely mainly on machinery for the work of production. In regard to a majority of these, there can be no doubt that

their representative manufacturers would be able to defy the competition of the world if the burden of taxation was removed, to the extent that it is in Great Britain, from the materials which enter into their products, and from tools and machinery, and from many of the commodities which are essential to the living and comfort of their employees, and the continuance of which is no longer needed to meet any necessities of the state for revenue. Where the use of machinery—especially of a complex kind—which is the kind mainly used in the manufacture of the world's great staple products, and in the invention and application of which the United States especially excels—forms an important factor in the work of production, the cost of the wages paid to the people who work such machinery forms no criterion of the cost of the goods which are the resulting product. In all such cases "it is the operative that earns the highest wages who compasses the lowest cost of production;" and whoever doubts or fails to comprehend these propositions has not yet grasped the A B C of the subject. Thus, for example, when the product of one day's labor in the manufacture of cotton cloth in the United States, properly apportioned and with the aid of machinery, is equivalent to the product of at least twenty days' labor for a like purpose in China, Central America, and other semi-civilized countries (as is the case), it is a matter of very little consequence whether the laborers who grow the cotton in Texas or spin and weave it in New England receive a greater or less number of dollars per week for their wages; for the question as to who shall command the markets of such countries turns up other and entirely different considerations. To-day the poorest paid labor in the world, namely, that of the natives of India, will be glad to work for twelve and a half cents per day, making bagging (gunny-cloth) to bale American cotton out of the fibre of the jute; but the American manufacturer, paying from seven to ten times as much per day to women operatives, can make a better article so much cheaper, that the Indian producer has been practically driven from the field of competition in this country. And yet, so long as the Federal Government continues to levy a tax of six dollars per ton on the fibre which the American manufacturer uses there is very little chance for

the latter to sell the results of his ingenious machinery and highly paid labor in any other than his own country; and so a large number of the American bagging mills are now idle, and the home market is glutted with their unsold products. The case of the miserably paid women and children in the "black country" of England has recently been cited by a correspondent of the N. Y. *Tribune* as a fearful example of what the working men and women of the United States would be subjected to if they should undertake to make nails in the absence of a high protective tariff on the importation of nails, when the truth is that the logic is all the other way, and it is the English laborer who needs to be protected against the American, and not the American against the English pauper; inasmuch as the latter, if he will persist in making nails by hand, has got to compete against machines of American invention which can make more nails in one hour than the paupers working by hand can make in a day, and at less than a tenth of the expense. To which it may be added, that the operatives who work the American machines receive almost the highest wages paid in the United States in any department of mechanical industry.

One of the most novel and interesting illustrations, which the writer has recently met with, of the absurdity and fallacy of much of the current averment of the necessity for protection for such a country as the United States against the competitive pauper labor of foreign countries, is given in Senior's "Conversations and Journals in Egypt," (London, 1882). Mr. Senior was an English lawyer and economist of high standing, who some years ago visited Egypt in company with a celebrated British engineer, Mr. McLean, and in the course of their travels the two visited the Pyramids; and while on the ground speculated concerning the cost and the amount of labor entering into these great structures. "I asked Mr. McLean," writes Mr. Senior (pp. 63, 64), "for what he could reproduce the largest of them on a spot in the immediate neighborhood, as in their case, of a quarry. He said, roughly estimating their contents at 80,000,000 cubic feet, and the cost at 3d. (six cents) per cubic foot, for a million sterling. It appears that their contents are 88,000,000 cubic feet. The cost, therefore, would be £62,500 more—in all, £1,062,500" (or $5,310,000). McLEAN: "There would not be the

least difficulty in the performance, and with 25,000 men I could do it in one year; with 2500 men in ten years and turn out a much better article." SENIOR: "For what could you build a pyramid in England?" MCLEAN: "I cannot answer that question without knowing what I should have to pay for the stone —that is, for permission to extract it. Let me have the use of the quarry for nothing, and I think a pyramid could be built nearly as cheaply in England as in Egypt. It is true that labor is four times as dear in England as in Egypt, as our laborers receive three shillings a day where the Egyptians receive a sixpence, and our men do only two thirds more work; but our skill and our mechanical contrivances nearly make up the difference."

Now if pyramids were an article of international trade, *i.e.*, of demand and supply, and the question of wages was to be held to be determinative of what country should furnish them, it would seem impossible for the English laborer to engage in the pyramid business without being largely protected against the pauper labor of Egypt, when the real truth would be that it was the Egyptian pauper, working for sixpence a day and finding himself, that needed large protection against the comparatively high-priced Englishman, and that even then he could only supply a comparatively restricted demand of his own local market for pyramids.

Further evidence to the same effect might be adduced to almost any extent; but enough, it is believed, has been said to abundantly prove, that instead of fearing the competition of foreign pauper laborers, who are paupers mainly because of the absence of natural advantages and a lack of the ownership and use of machinery, we ought rather to welcome it and recognize that there is no way in which as a nation we can so rapidly and certainly enrich ourselves as by exchanging the products of our skill and machinery, representing but a comparatively small amount of labor, with the products of the so-called foreign pauper laborers, representing a comparatively large amount of labor.

DAVID A. WELLS.

CURRENCY PROBLEMS.

FOR nearly seventeen years the industrial and financial economy of the country was deranged by inconvertible paper money. In looking back to the supposed causes which led to a resort to a forced issue, it becomes evident that the measure was not only unnecessary, but mischievous and dangerous; and it is also evident that in almost any year that elapsed between the passage of the legal-tender act and the actual resumption of specie payments a little energy would have disposed of the incubus. Yet the only honest attempt to reach a sound currency basis—the policy of currency contraction adopted by Hon. Hugh McCulloch, then Secretary of the Treasury—was speedily thwarted and the old condition of affairs restored.

The year 1879 was marked by two events which have great economic importance. On the 1st of January specie payments were resumed, and the dead-weight of a currency that was irredeemable and fluctuating in value was lifted from the trade and industry of the country. In the fall occurred an unexampled revival in every branch of business, and the longest and most severe period of financial and commercial depression the country has ever experienced was ended. The knowledge that the currency was on a firm basis aided this revival and intensified its effects when it came. The two years of great prosperity which succeeded served to conceal, and even in a measure neutralize, certain dangerous elements in the financial economy of the country, which ignorant or interested legislation had introduced. At the present time the period of prosperity, of speculation, and inflated values is over, and a commercial depression which may become as severe as that which succeeded the crisis of 1873 has come. In this stage of reaction these elements of mischief

are again threatening, and it is evident that they have been acquiring force even while apparently inactive.

The circulating medium of the country is composed of three elements: gold and silver; legal-tenders, or circulating notes issued by the Federal Government and redeemable in gold or silver; and National Bank notes, the issues of which are secured by the deposit of United States Government bonds, and are convertible on demand into gold, silver, or legal tenders. But money is only the instrument of exchange, and the quantity that a nation needs depends upon the extent of its exchanges and the rapidity with which they are made. The exchanges are not a fixed quantity, but are subject to great fluctuations, ebbing and flowing with the general condition of trade and industry, of demand and supply or of the markets, and the state of credit. During the years that have elapsed since the resumption of specie payments the changes in the total amount of currency in circulation have been very marked, rising from $1,165,553,503 in November, 1879, to $1,488,838,554 in November, 1882. In order to meet these altered conditions of the exchanges it is essential that the currency may adapt itself to the situation, that it may be elastic; and one of the most perfect laws in economic science is that which governs the natural increase and decrease of a sound currency to satisfy the new conditions that arise.

In the currency of this country but two of the elements are elastic, and, as will be shown, these possess this quality in only a limited degree. Since 1878 the amount of legal-tenders that may be issued has been fixed at $346,681,016, so that while this part of the circulating medium may be contracted, it cannot, under existing laws, be expanded. Any increase must therefore occur in the National Bank notes or the precious metals.

The issues of the National Banks are based upon a deposit of United States Government bonds. On the 30th July last the banks held bonds to secure their circulation to the amount of $357,151,450, which is a smaller aggregate than they have held at any time since the system was first authorized. This amount was composed as follows:

6's, Currency....	$3,452,000
5's, ...	15,000

4½'s,	39,797,500
4's,	104,693,650
3's,	201,989,800
3½'s,	7,203,500
Total	$357,151,450

On September 29th this amount had been reduced to $353,675,150. All of the outstanding three-and-one-half-per-cent bonds have been called, and will be cancelled by November 1. Any further reductions in the debt will be made in the three-per-cent bonds, of which there were outstanding on the 1st of October about $305,000,000, and nearly two thirds of this total is held by the banks. The 122d call, issued in September, was for $15,000,000 of these three-per-cent bonds, and in this sum was included about $4,500,000 of bonds held by the banks. These three-per-cents are wholly under the control of the Government, and are subject to redemption as the income of the Government will allow, and in an order inverse to that in which they were issued. That is, the bonds that were first allotted will be the last to be redeemed. The surplus revenue applicable to debt reduction was in the fiscal year ending June 30, 1883, $137,000,000, and in spite of changes in tariff and internal duties there will probably be nearly $100,000,000 surplus income in the present year. So that, even supposing that the banks hold the bonds that will be the last to be called, in about one year they must begin to surrender their holdings, and with them their circulation. Nor will this contraction be gradual, but will be made by leaps and bounds, which will greatly aggravate the situation. The time is not far distant when the National Bank note circulation will be not only inelastic, incapable of expansion, but even a constantly contracting currency, unless other bonds are purchased and deposited in place of those called in. This remedy is, however, very unlikely, as the prices now obtained for the bonds bearing rates of interest over three per cent are so high, that, taken in conjunction with other burdens and restrictions imposed upon the banks, there will be little, if indeed any, profit in the operation.

Three remedies for this situation other than that just mentioned have been prominently brought forward:

1. The restrictions imposed upon the issuing of the legal-tenders may be withdrawn, and as the bank currency is contracted new government issues may take its place.

The objection to resorting to an increased issue of legal-tenders is one of principle and not of degree, as it applies to every such note. The issuing of circulating notes is not a necessary or proper function of government, and when resort is had to this measure there is a danger that it will be abused. This is particularly the tendency in this country, where a popular cry is often misinterpreted as a popular demand. The idea that plenty of money, irrespective of its quality, brings prosperity, and that the more money there is, the more prosperity, is one that meets us in the history of every nation, and again and again in the experience of any one people. The greenback is now at par because it is exchangeable for gold on demand, and it is known that the government is in a position to so redeem it when called upon. Its value rests upon no *fiat* of the government, but upon what lies in the vaults of the treasury for its redemption. It merely reflects, as it were, the value of that which it represents —the treasury reserve. So long as the issues are limited in amount, and a sufficient redemption fund of the right quality is maintained, these notes will circulate among the people at their full face value, and furnish a good medium of exchange. Senator Sherman briefly summed up the advantages of such an issue as follows: "A limited amount of United States notes is desirable for this reason, that the United States can better maintain and hold in reserve a larger amount of gold and silver coin than any association of banks can possibly do. Besides, the reserve is always under the eye of the public; that reserve cannot be dissipated by dishonest banking; it cannot be squandered by a fraudulent president or cashier; it is there in the sight of the world, the great fulcrum and basis on which your system rests; and there it should be preserved and maintained."

What if the limitation now imposed upon the issue of the greenback be removed. The government is as amenable to economic laws as the individual. It may have high credit; it may point to financial operations of great magnitude, the resumption of specie payments, the wholesale refunding at a low rate of interest of its bonds, an enormous revenue, which has

allowed it to make large reductions in its debt besides meeting all of its current obligations: still it cannot force into circulation at par a currency that is not of full value. It must have something tangible to support its credit, but it could not hope for this under an unlimited issue. The very fact that the amount to be put in circulation was under the control of Congress would excite a reasonable suspicion as to its quality, because Congress is open to influences which might easily lead it into an abuse of its power. There have been political leaders who have gravely urged, both in and out of Congress, the theory that money is wealth, that paper promises issued by the government are money, and that it is only necessary to keep the presses at work to bring to pass an industrial and financial millennium. The country has once escaped an invasion of this pestiferous doctrine, but the heresy is by no means killed, and there will yet be found many who will defend it when they see it is for their own interests to do so. A currency that was exposed to such dangers, and that depended upon such "regulation," would be the worst possible currency. There would be, and from the nature of things there could be, no guarantee that the notes would be redeemed or convertible in gold. Any overissue would return upon the treasury to deplete its reserve, and a slight panic or distrust would compel the government to suspend specie payment, and would result in again subjecting the country to a currency that was depreciated and fluctuating in value.

2. It is said that if the tax of one per cent on circulation were to be repealed the stability of the National Bank system would be assured. There exists in Congress a strong feeling against these institutions. They are regarded by many as having been specially favored, as having grown fat upon government bounty, and as monopolies that ought not to be continued. For this reason it is very doubtful if any new favor could be secured for them, however just it might be. The last Congress abolished the taxes upon deposits and capital, but left untouched that upon circulation, altho Mr. Knox recommended that it be reduced one half. It is this privilege of issuing circulating notes that embodies the chief cause for complaint against the banks, and it is very doubtful if Congress would remove a tax which keeps the banks in reminder that they

enjoy a privilege.[1] If such a repeal were made it would not afford more than a temporary relief, as it would in no wise influence the rate at which the bonds are being called in and redeemed. The real remedy must lie deeper. Of a like character, but somewhat more effective, is the recommendation of Mr. Knox that the bonds bearing higher rates of interest be refunded into three-per-cent bonds. "If the whole public debt were reduced to a uniform rate of three per cent, the present high premium upon bonds would almost entirely disappear, and the volume of circulation would respond more readily to the demands of business. The temptation to sell such bonds for the purpose of realizing the premium would no longer remain. . . . The proposition is that inducements be offered to the holders of the four and four-and-a-half-per-cent bonds to surrender them to the government, receiving in payment therefor three-per-cent bonds having the same dates of maturity as the bonds which are to be surrendered. The new three per cent bonds issued would themselves bear a small premium, and it is believed that the holders of four-per-cents would consent to such an exchange if accompanied by an offer of not more than fifteen per cent premium. The amount of the premium upon this class of bonds, say $700,000,000, now outstanding at fifteen per cent, would be $105,000,000, and this premium could be paid, as the bonds are surrendered for exchange, from the surplus revenue of the government, thus in effect reducing the debt of the government $105,000,000 by a prepayment of interest which must be paid at a greater rate each year until their maturity.

"The benefits of this plan both to the holder and to the government are apparent. The holders would receive, in the shape of fifteen per cent premium upon the bonds, a portion of their interest in advance, which would be available for loans at rates greatly exceeding the borrowing power of the government, which is now less than three per cent. The government would

[1] It is worth noting that this privilege is not used to any great extent by the banks situated in the financial centres of the country, but rather by those in the smaller cities and towns. The city banks have many sources of profit other than circulating notes, but outside of the large cities the issue of notes is relied upon to make the business of banking profitable.

be enabled by this use of its surplus to save a portion of the interest which otherwise it would be compelled to pay hereafter."[1]

This plan is marked by great ingenuity, but it introduces a somewhat new principle in the government finances—that of purchasing its own bonds at a premium.

3. A very high authority, Mr. Hugh McCulloch, recommends that a certain part of the debt, say about $100,000,000, be made perpetual, in order to furnish the people "with an undoubted security." Apart from sentimental or economic objections to any amount of debt, there lies the point that it is no part of the government's business to furnish undoubted securities to its subjects. It exists to protect the lives and property of those over whom it is placed, and its duty is to promote the general welfare by making such protection effective; but it would require a very liberal interpretation of its powers to enable it to furnish sound investments for the governed. Even were this plea allowed, there would be no object in limiting the amount of such securities to $100,000,000—a purely arbitrary limit; but the whole existing debt might be made perpetual, as there exists a demand among investors sufficient to absorb the whole of it. In case more was needed new debt might be created, until the supply was equal to the demand. The Federal Government is already overburdened with functions, and when it is drawing or threatening to draw to itself new and important powers, which have hitherto been entrusted to and exercised by corporations, it is no time to clothe it with an unnecessary function. It is to be regretted that abuse and mismanagement of important interests have created a distrust in certain classes of investments—notably in the securities issued by railroad corporations—which under a judicious and well-considered administration would be as safe an investment as government bonds, while making higher returns on the capital invested. But it is no part of the government to interfere by issuing undoubted securities. The debt ought to be paid off as rapidly as circumstances will allow, but not so rapidly as to endanger the stability of the institutions that have been built upon the debt.

[1] "Report of the Comptroller of the Currency," 1882, p. 21.

It thus becomes evident that if the existing fiscal policy of the government be maintained, the only really elastic part of the currency will be the gold and silver. But here it is necessary to make a distinction between the gold and the silver in the money of the country, and this will draw attention to a second danger which now threatens its financial economy, and an even greater danger than that which attends the rapid extinction of the National Bank system.

As a matter of convenience, the operation of coinage is usually entrusted to the government. The part played by the government in this operation ought, however, to be purely mechanical, accepting the bullion offered to it and returning coins of a weight and fineness which are determined by the laws of the nation. The functions of the mint are to form coins of the full weight and containing a certain quantity of metal, and the stamp impressed upon them is merely the guarantee of the government that they possess the qualities required by law. The government ought not to attempt to determine the value of the coins, as that is beyond the power of government to determine; nor should the government regulate the number of coins to be stamped. The value of the coins depends upon the quantity of gold or silver in the market, and their number is governed by the relation of the demand for coins to the supply. The operations of the mint are, or ought to be, purely automatic, and they are determined by the convenience of the public. "It is this self-acting character of the mint which is the great safeguard of the coinage. If it were in the power of the government to refuse to coin, they would be able to restrict the coinage, and to add to its exchangeable value. If they were able to alter the quantity and purity of the metal contained in the sovereign, they would be able to depreciate its value, as has in former times often been done. In either case they would be able to derange markets, and alter existing contracts which are made in terms of the pound. The self-acting character of the mint operations reduces the function of the state in issuing money to that of a verifier of weights and measures."[1]

[1] Farrar, "The State in its Relation to Trade," p. 46.

It must be evident that while the laws governing the coining of gold respect this self-acting character of the mint, it is not recognized by the law of 1878, under which the standard silver dollar is coined. This last-named law fixes upon an arbitrary relation of silver to gold, a relation that did not exist at the time the law was passed, has never existed since, and which subsequent events have proved to be so far from the correct relation, that what purports to be one dollar is in fact worth but about eighty-five cents. The government guarantees that the coin contains four hundred and twelve and a half grains Troy of standard silver, but in the present condition of the silver market it is absurd to call the coin one dollar. It is a dishonest dollar. The law which committed this error made even a greater blunder in attempting to dictate how many coins should be struck each month, thus again setting aside the automatic character which properly belongs to the mint. The foolishness of such a proceeding is too patent to need any examination, yet it was at the time thought, and doubtless honestly, that the evils attending a double standard of gold and silver would thus be escaped. The law on this point is absolute: the Secretary of the Treasury is "directed to purchase, from time to time, silver bullion, at the market price thereof, not less than $2,000,000 worth per month nor more than $4,000,000 worth per month, and cause the same to be coined monthly, as fast as so purchased," into standard dollars. This coinage has continued as the law directs since March, 1878, irrespective of the demand. The result might easily have been foretold. The coins will not circulate, and have been steadily accumulating in the Treasury vaults, as the capacity of the country to absorb them is limited, and the limit seems to have been reached some time ago. Of the amount coined during the fiscal year ending June 30, 1883, nearly five sixths remained in the Treasury. As if to insure the non-circulation of the coin the certificate system was introduced; no sooner do the pieces get outside of the Treasury when they are returned to be exchanged for the more convenient certificates. The coins cannot form part of the reserve in banks, because these institutions are in duty bound to keep only the best forms of securities; nor can the banks in justice to themselves or to their customers

freely receive the certificates, as these issues are a legal tender for public dues only, and not for private debts. But even if this certificate system did not exist the attempt to force into circulation a depreciated coin must have failed. A market for silver bullion to the extent of at least $2,000,000 per month was created, but no corresponding market for the coins was possible.

Honest money requires no law to make it circulate; the act is instinctive. A gold dollar is such a currency; the National Bank note is such a medium of exchange. Gauged in the money markets of the world, they have been found to be what they purport to be—sound money. Every merchant or banker who accepts them knows exactly what he is taking, and knows that he may part with them on the same terms. The standard silver dollar rests upon a very different basis. As its value is governed by the price of silver, it has one value to-day, another to-morrow; always fluctuating and uncertain. In no sense of the word is it a good currency. It is a discredited coin both abroad, where it will not be received except at its bullion value, and at home, where it will not as yet circulate.

The greatest danger attending a continued coinage of this useless dollar is that it is capable of doing great mischief. They may not circulate now, but the time is coming when they *must* circulate. They are now accumulating in the Treasury vaults, but so rapidly that it is only a question of time when silver must become the predominant element in the currency, and what is much worse, an element that is depreciated in value. Examine the figures (in part estimated) given by the Comptroller of the Currency for the total amount of currency in the country during the last three years (November, 1879–November, 1882). The legal-tenders have neither increased nor diminished; the National Bank note circulation increased only seven and one half per cent; gold, somewhat over fifty-nine per cent (a result due to exceptional circumstances, as will be shown); and *silver, more than sixty-eight per cent.* Nor is this the only indication of the excessive increase of silver in the money of the country; for the Treasury figures prove that it is crowding out the more valuable metal in the "reserve," the fund which is held to ensure the redemption of the greenback or

legal-tender, and which gives it its value. While in September, 1882, sixteen per cent of the reserve was of silver, in July, 1883, it formed more than twenty-four per cent; and the amount of gold was diminishing while silver was increasing. In spite of all laws regulating the composition of the reserve, the time is approaching when the legal-tender, merely reflecting the value of that which is behind it and in terms of which it is redeemable, will be worth only as much as the silver dollar, or about eighty-four cents. Gold will be exported, the prices of commodities will be increased in order to be conformed to the new measure of value, an era of depreciated currency will be inaugurated, and who can even attempt to calculate the losses that must follow? As wages alone will not for some time rise in proportion to the increased prices, almost the whole crushing force of this piece of folly must be borne by the working-man—the man who is the least able to suffer any derangement of that kind, however small. These tendencies and facts were known a year ago, and were as marked then as they are now, yet Congress in the last session decided that it would be "inexpedient" to suspend the coinage of the silver dollar.

I have thus shown that silver is an elastic element in the currency, but it has not the right kind of elasticity, and so far from adding strength, is a source of danger to the financial economy of the country. How is it with gold?

There is still to be met much of the old mercantile system, which taught that the economic well-being of a state was in proportion to the quantity of money which circulates in it. Gold and silver are wealth only as grain, coal, and iron are also wealth; their use as money has not altered their real nature, and every exchange is still essentially an operation of barter. But it is commonly thought that an import of gold is a good thing, while an export of that metal is to be guarded against as a sign of weakness. In short, it is the old theory of exporting all you can in order that the precious metals may be imported. It is a fallacy which is bound up with the protective system, as that directly teaches that an export of gold is an indication of national impoverishment. During the fiscal years 1880–81 the country imported gold in excess of what it exported for the first time since 1861. The large exports of cereal products in 1879,

1880, and 1881 had made Europe our debtor, and in part settlement of the debt gold was sent here. In the two years 1880–81 the imports of gold exceeded the exports by $174,585,498, according to the returns of the Bureau of Statistics. In the following year (1882) the tide turned, and the excess of exports amounted to $6,945,089.

Was this influx of gold natural? In those years, while a wave of great prosperity flowed over the country, there was undoubtedly a demand for more currency in order to perform the necessary exchanges and to move the enormous crops.[1] But it would appear that the causes which occasioned the imports of gold were precedent to the revival of trade that occurred in 1879. Beginning with 1876 the United States began to export a greater value in merchandise than it imported, and in the years, 1878–9 the excess was very large, but due chiefly to an increased exportation of bread and breadstuffs. The value of the imports declined somewhat, and reached the lowest point in 1878, the last year of the depression. This was in accordance with economic laws, as the low prices then prevailing discouraged imports while favoring exports. An examination of the following table will show the movements of trade from 1876 to 1882, and will allow a clearer understanding of the imports of gold:

	Domestic Exports.	Imports.	Excess of Exports.
1876	$525,582,247	$460,741,190	$64,841,057
1877	589,670,224	451,323,126	138,347,098
1878	680,709,268	437,051,532	243,657,736
1879	698,340,790	445,777,775	252,563,015
1880	823,946,353	667,954,746	155,991,607
1881	883,925,947	642,664,628	241,261,319
1882	733,239,732	724,639,574	8,600,158

In spite of the large excess of exports over imports that was yearly accumulating from 1876, no imports of the precious metals took place until 1880, altho the amount exported was being diminished from forty millions in 1876 to five millions in 1879. It is very likely that a part of this balance is due to dif-

[1] Some idea of the increase in business transactions which occurred in those years may be obtained from the average daily exchanges shown by the returns of the New York Clearing House Association: 1879, $82,015,540; 1880, $121,510,224; 1881, $159,232,191; 1882, $151,637,935.

ferences in the methods of computing the value of merchandise; another part was liquidated by a return of State and railroad securities held abroad. It is also probable that the great increase in the exports of 1878 and 1879 (chiefly of cereal products) could not be met by any corresponding increase in the importations, as the condition of the markets would not allow it, and so were settled in gold. After 1879, or when prices had begun to rise in the domestic markets, it will be noted that imports were greatly increased, and thus more equal relations were established. After 1881 more gold was sent out of the country than was brought into it.

This curious circumstance leads to another question, What was the effect of this influx of gold? Such a sudden addition to the currency of the country was not wholly productive of good. It led to higher prices of commodities; the high prices engendered speculation, and an undue expansion of credit occurred. An era of great prosperity was looked for, but it was of short duration. In less than three years after the revival first became marked, trade has become depressed, the markets are overstocked with many commodities, prices are nearly as low as they were in 1878, speculation has met with serious collapses, and a period of general liquidation is at hand. The lard and leather failures, the restrictions on production in the iron, cotton, woollen and other industries, and the shrinkage in the prices of securities, are merely methods of recovering from the fever of speculation and inflation—attempts to reach a firmer basis.

Could this influx of gold have been controlled, and thus these commercial and financial derangements modified? International trade is essentially a system of barter, an exchange of commodity for commodity. When a nation imports more than it exports it liquidates the balance in gold or silver. Place restrictions upon the free movement of merchandise, and the laws of trade are interfered with. Had the tariff of the United States been generally lower in 1878 and 1879 it would have offered an opportunity of settling a part of the balance with commodities, as was done two years later. But the existing high tariff compelled a settlement in gold.

This has a close bearing on the currency question, and it becomes important because, as I have shown, the gold ought to

form the basis of our money, as on it depends the value of the legal-tender, if not the National Bank note. The country has gained much gold; can it keep it? It cannot afford to lose it while the silver crisis is impending, but the laws which govern the movement of the precious metals are higher than the enactments of legislative bodies, and any interference with their operation is only productive of mischief. A nation's power to attract gold is measured by its capacity for exporting such commodities as are in demand. But it must be a natural movement, and not one fostered by bounties and subsidies. The high tariff by imposing restrictions upon importation restricts exportation, and so reduces the power of the country to command the gold supply of the world—a position for which its great natural advantages have prepared it.

I have already clearly indicated the remedies which I consider ought to be applied in order to place the currency upon a sound basis, but it will be convenient here to summarize them. (1) The coinage of the silver dollar ought to be suspended. This would remove a great danger that is now impending. (2) The tariff ought to be reformed: first, in order that the movement of the precious metals may be more free; and, secondly, in order that the surplus revenue now collected by the government, and the cause of the rapid payment of debt, may be abolished. This would ensure a moderate contraction of the National Bank note currency, and thus allow more time for securing some other form of paper money that is quite as secure; and also remove the fear that now attends any large export of gold. But both remedies should be applied.

WORTHINGTON C. FORD.

THE CRITICAL STUDY OF THE SCRIPTURES.[1]

MOST people will agree that probably no quarter of a century since Bacon's day has witnessed such a rapid "advancement of learning" as the one lying immediately behind us, which opened, roughly speaking, with the publication of the *Origin of Species* (1859); and there are some who are disposed to think that during this period no one field of research has yielded more fruit to the scholar's labor than that of Biblical Science. A new school of historical critics has arisen—if we may so class independent writers of all countries, united only by holding the same general principles and applying the same general method; and the result has been to open a new era in Scriptural study, an era as completely new as that which the work of Darwin and his compeers opened in Natural Science. The questions raised by a critical study of the Scriptures are of course manifold and multiform, and already the literature of the subject is so voluminous that its bibliography would be no light undertaking. It will serve, however, to indicate the general character of the new criticism if we briefly examine one view recently advanced; namely, that which regards the Pentateuchal Law as originating among the exiles at Babylon, and becoming practically operative only after Israel had ceased to be a nation and existed merely as a municipality and a church. In substance this theory was put forth as far back as 1835, in Vatke's *Biblische Theologie*, but failed at that time to receive any general recognition. In 1866 it was revived by Graf in his *Geschichtlichen Bücher des A. T.*, but tho supported by Reuss, Lagarde, and others, the so called

[1] The Right and Wrong Uses of the Bible: Rev. R. H. Newton. The Old Testament in the Jewish Church: Prof. W. Robertson Smith.

Grafian theory was unable to cope with the received view of the history, originating with De Wette and maintained by Ewald, and the authority of the older school continued paramount until the publication in 1870 of Kuenen's *Godsdienst van Israel*, of Reuss's *Histoire des Israelites* in 1877, and Wellhausen's *Geschichte Israels* in 1878. The opinion of the general public doubtless still remains unchanged, owing to its ignorance of these recent works, but it can hardly be questioned—spite of the energetic denials such an assertion would assuredly call forth—that the contest between the older and newer criticism is virtually decided, and that the general conclusions of Kuenen and Wellhausen will eventually be accepted by all scholars. It is significant of this result that even so pronounced a conservative as Delitzsch has lately made marked concessions to the views of the new school. While much of course remains to be done, and something perhaps to be undone, and the new critics differ among themselves over many points of detail, yet their general position—the representation of Israel's religion as emerging out of the crude fancies of primitive ethnicism and slowly rising to the purest and profoundest spiritual conceptions; as a development from germinal principles that witnesses to a progressive revelation which adapted itself to the growing mind of the race—this seems to be supported by the only admissible interpretation of the historic records.

The new criticism is in effect a cross-examination of the Hebrew Scriptures, under which the historic theory obtained from their "direct" examination breaks down. According to that theory Moses was the author of the Pentateuch, and the Levitical Law in its entirety was given to the Israelites before they entered Canaan. The Law contained a revelation from God to his people which was a complete finality; its provisions covered every detail and circumstance of the religious life, and the keeping of it was the whole of religion. On these premises the religious history of Israel can be nothing else than the record of obedience or disobedience to the Law, and all possibility is excluded of a progress in revelation and a growth of the religious mind. The system of the Law set forth in the middle books of the Pentateuch is in principle a scheme of mediation which aims to provide the necessary conditions upon which the

divine displeasure may be averted and the divine favor secured. These conditions are rather formal than spiritual. For law in its own nature is only negative in aim and effect: it is regulative of conduct and preventive of sin, not constructive of character and creative of goodness. Thus the "holiness" which God requires of his people is a term of ritual as well as of ethics; it refers not only to personal character, but to the manifold ceremonial ordinances through which alone personal religion can find acceptable expression. Any neglect or irregularity of ceremonial observance is therefore on a par with the gravest moral offence, and merits an equal penalty. To avert such penalty an "atonement" is demanded, and this is effected by means of "sacrifice"—the blood of a slaughtered animal offered to Jehovah. But the offender himself can by no means bring his sin-offering to the altar. It is only the holy who can safely approach the awful presence of the holy God. The priesthood are a body specially consecrated by Jehovah to act as intermediaries between him and his people, and the main object of the priestly ritual is to offer sacrifice and make atonement for the sins of Israel. Thus the forgiveness of sin is absolutely dependent upon the hierarchy. The people at large are cut off from any direct access to their God, the approach to whose one sanctuary is guarded by a double cordon of priests and Levites.

The new criticism, as I have said, contends that this Law, called Mosaic, was unknown in Israel before the Exile; and it rests its case upon the testimony of the historical and prophetical books, together with an analysis of the Pentateuch itself. The heads of the argument may be summarized as follows: (1.) The books of Judges, Samuel, and Kings, which bring down the history in continuous narrative from the Conquest to the Exile, present a general picture of the life and worship of ancient Israel at all points irreconcilable with the assumed contemporary prevalence of the Levitical Law. To take a single crucial point: There is no more cardinal doctrine of the Levitical system than the law of the one Sanctuary and the relegation of all right and power to offer sacrifice to the priesthood alone. On the Levitical theory not only the tolerance of many local sanctuaries would be impossible, but their existence would be inconceivable. Other sanctuaries than the one of divine ap-

pointment are not merely less holy, places where communion with Jehovah is less solemn and intimate; but they are places where no revelation of his presence can anywise be found, and so they are not and cannot be sanctuaries of Jehovah at all. The popular religion knows nothing of such a theory. The history shows us local worship and lay sacrifice acknowledged as part of the established ordinances of the land; and worship at the local sanctuaries, tho conducted under forms full of irregularity from the Levitical standpoint, continues down to the reign of Hezekiah unrebuked by any voice of prophet, priest, or king. Nor is the worship of the central sanctuary at Shiloh, or afterward of the Temple at Jerusalem, any more accordant with the principles of the Law. The facts of their history make it evident that neither held that ideal position which the Levitical theory assigns to the one sanctuary of Jehovah, and hence that no such Levitical sanctuary anywhere actually existed. The pre-eminence of the Temple lay mainly in the circumstance that it was the sanctuary of the kings of Judah. Like the cathedral in the Kremlin it was one among various buildings of official use included in a vast citadel. It was in fact the chapel royal, and its service part of the regal state and under the regulation of the king. A certain discrepancy between the Pentateuchal theory and the popular practice has indeed always been perceived and admitted, and it is explained by alleging that Israel neglected and forsook the Mosaic ordinances under the influence of Canaanite idolatry. But our critics maintain that such an explanation is wholly inadequate to account for the facts of the case. For the history establishes by cumulative and overwhelming evidence that during the whole period of the Judges and Kings the Law was not merely disobeyed, but was entirely unknown even as the theoretic constitution of Israel's religion. Moreover it is impossible to regard the popular worship as merely a corruption of the Levitical system, for the reason that the difference which declares itself between these two is radical and essential and exhibits them as religions of distinctly opposite type. According to Levitical principles God is absolutely inaccessible to man except in the ritual of the sanctuary and through the mediating priesthood. In the popular religion access to Jehovah was open to every Israelite, and every

concern of private or public life that called men to look Godward was a summons to the altar. Every family feast was an Eucharistic Sacrifice. In the book of Proverbs, which speaks the ordinary language of the people, a feast and a sacrifice are identical; occasions of natural joy and festivity are at the same time occasions of religious observance. Throughout the history the practice of sacrifice appears interwoven with the whole life of the nation. The people found Jehovah and rejoiced before him, not in one place at rare intervals, but in every corner of the land and on every occasion of life. There cannot be a sharper contrast than that between the Levitical conception of sacrificial intercourse with God and the popular conception which ruled the religious life of Israel down to the captivity.

(2.) It is common for those who account for all variance between the legal system and the popular worship on the theory of disobedience to the Law to cite the prophets as continually rebuking this backsliding on the part of the stiff-necked and rebellious people. To this the new criticism replies: It is true that the prophets find great fault with Israel, but it is not for their neglect of any ritual law. On the contrary it is their complaint that the people make too much of ritual service, and, while needlessly punctilious concerning external forms, are careless of the justice and mercy which alone can make their religion vital and their worship acceptable to the God of righteousness. Jeremiah declares: "Thus saith the Lord of hosts, I spake not unto your fathers nor commanded them in the day that I brought them out of the land of Egypt concerning burnt offerings or sacrifices; but this thing commanded I them, saying, Obey my voice, and I will be your God and ye shall be my people." (Cf. Amos v. 21 sq.; Micah vi. 8; Isaiah i. 11 sq., xliii. 23 sq., etc.)

It is true again that we find the prophets of the eighth century agitating against the worship of the local sanctuaries, but this reform does not proceed from any starting-point of Levitical theory. It is not urged because in the very nature of the covenant there can be but one altar and one priesthood in Israel, but simply as a practical measure to meet a practical evil, the gradual paganizing of the Jehovah worship. But the deeper motive prompting the prophetic movement was hostility to the

principle of ritualism to which religion tended to become a routine of formal observances rather than a practical power over daily life. This would be heathenism indeed; for in the view of the prophets it is the distinctive principle of Mosaism that communion with God is found in no external rite, but only by the conscience and the heart. Hence the religious standpoint of the prophets is distinct at once from that of the popular worship and that of the Levitical system. They are organs of a spiritual revelation. They have stood, they say, in the secret council of Jehovah; they know the law of his working and the supreme design which guides his dealings with his people. For "the secret of the Lord belongs to them that fear him, and he will make them know his covenant." The prophets are not diviners, but intimates and confidants of Jehovah. Their knowledge of his ways is no mere intellectual gift, but comes through their sympathy with his heart and will. "When Israel was a child I loved him, and called my son out of Egypt. . . . . I taught Ephraim to go, holding them by their arms. . . . . I drew them with human cords, with bands of love." The prophets know Jehovah as the Father of his people, and with them religion is a filial relation of reverent and trusting obedience to the Divine righteousness and love. It is not a merely natural and unconditional bond, such as makes Moab the people of Chemosh; nor is it grounded in a legal covenant or pact; it is union through likeness in character, and Jehovah can be Israel's God only so far as Israel follows righteousness. Thus in the thought of the prophets religion makes men partakers in a divine life, while in the popular conception it only made Jehovah a partaker in the life of men. Hence religion as they teach it is something more than "ethical monotheism;" it goes deeper than all conduct; it is not primarily concerned with any law of works; it is the personal intercourse and fellowship with the heavenly Father and Friend in which is the growth of godliness and the moulding of men into likeness with the divine nature. And so when the prophets speak of the "law" (Torah) of God which it is their mission to reveal, it is plain that in their use of it this loose and elastic term signifies no law of ordinances, but the law of the spirit of a godly life. That law cannot be reduced to a written code; it is the living word in the mouth of the prophet, and

nothing can supersede this prophetic word but the writing of the divine revelation in the hearts of all the people. And this is the ideal state, the goal to which Jehovah is leading Israel by his servants the prophets. For their aim and effort is to lift the whole people to their own level; not to keep them in perpetual separation on a lower plane of religious privilege, as the Law subjects the people to the priesthood, but to bring them to an equal share in the blessings of the prophetic consecration. They looked forward to a day when God's spirit should be poured upon all flesh, and the function of the prophet should cease because all Israel should attain to his spiritual mind and stand with him in the circle of Jehovah's intimates. At that day, "they shall no more teach one man another, saying, Know the Lord, for they shall all know me from the least of them unto the greatest, saith the Lord; for I will forgive their iniquity and remember their sin no more." Nor was the vision of prophetic hope bounded by the horizon of Israel. Jehovah's people were to be as a prophet among the nations, converting them to the knowledge of the Lord, leading them to the light and sharing with them its blessings. The glow and color of the splendid verse which paints the gathering of the Gentiles unto Zion and her God remain unmatched in literature. The conception of Israel as a priestly caste, fenced off from the world by her peculiar sanctity, forbidden to intermarry or hold any intercourse with heathen, this finds utterance by no prophet's voice. From the passage above cited and others similar it appears that God's purpose to turn the hearts of his people to himself and lead them to a knowledge of their true relation to him carries with it the forgiveness of sin. Nothing can be simpler than the prophetic teaching of free remission of sin to the penitent. The divine forgiveness may be had for the asking, and comes directly, needing no intervening rite of atoning sacrifice nor any ministry of a mediating priesthood. To the prophet its certainty is grounded in the unchangeable character of God: "I, even I, am he that blotteth out thine iniquity for mine own sake." It is in this deep spirituality that we find the inspiration of the prophets, and it is this that makes them the glory of Israel and true forerunners and foretellers of the Christ.

(3.) Finally the last branch of the argument is that drawn

from analysis of the Pentateuch. The pentateuch is a compilation of ancient traditions, incorporating three distinct legal collections which correspond to the three stages of religious development clearly marked out in the historical and prophetical books. The collection Ex. xxi.–xxiii. is the early law which ruled in Israel down to the eighth century, and gives expression to the ideas of the popular religion, as that is pictured in the history. It is not the code of a nomadic or pastoral people, but presupposes a simple agricultural life in settled homes. The civil laws are such as we find common to other primitive peoples, and the formal ordinances of the cultus contain little that is unique or peculiar. The distinctive character of Israel's religion at this period appears rather in the spirit than in the details of the legislation; above all in the clear enforcement of the truth that Jehovah's relation to his people is founded in moral principle and his favor forfeited by moral iniquity. The second code is comprised in Deut. xii.–xxvi. It is an independent reproduction of the first, in some instances modifying the older laws to conformity with a more advanced social state. The distinctive feature of the Deuteronomic code is its prohibition of the local sanctuaries, and this fixes its historic place as the law-book of Josiah's reformation. It was unknown to Isaiah and hence was not the basis of Hezekiah's attempted reform; but it was the result of the prophetic teaching, a practical scheme laid on the prophetic lines, to adjust the old religious constitution to present needs, arising from the great social change which had come over the people as it passed from the agricultural to the commercial state. From Josiah to the Captivity this code of Deuteronomy had but a generation to run. The third body of laws in the Pentateuch is the Levitical legislation. It is scattered through the books of Exodus, Leviticus, and Numbers, not forming a compact code, yet clearly marked off from the two former. They are social as well as religious, and deal with the whole national life; this starts from the sanctuary and the priesthood and regards Israel as a Church, habitually addressing the people as a "congregation." It points to a time when Jerusalem was no longer the seat of a free state, but the centre of a religious community. We trace its origin to the Captivity, for we find a clear sketch of its whole scheme in the book of

Ezekiel. It is there given out as something distinctly new and in known contrast with former religious theory and practice; tho Ezekiel, who is rather priest than prophet, may well have found germs of his principles latent in the unwritten law of old priestly usage. The development of the system falls therefore between the time of Ezekiel and the time of Ezra, by whose agency it was first put into practical operation and became the Law of the second Temple and of the new religion of Judaism.

Such at briefest is some statement of the evidence on which the new school bases its general conclusion, that the history of Israel refuses to be measured by the traditional theory as to the origin of the Pentateuch; that religion never was cast in the mould of the Levitical system until the whole life of the old kingdom was buried and forgotten, until the Jews were nothing more than a religious community based upon vague traditions of a national existence which had come to an end. And they who know how the critical argument has been worked out and established in detail by many painstaking scholars cannot think that Prof. Smith oversteps the bounds of proverbial Scottish caution when he "ventures to call it a demonstration." In the light of this new learning the religious life of Israel is brought into accord with those broad historic laws which are the uniform and calculable ways of God's dealing with mankind. Mosaism, it appears, is not identical with Pharisaism; it is no finished system, but a germ of spiritual thought and life unfolding in the national consciousness under the slow training of the ages, and reaching its finest flower in the noble religion of the prophets. The priestly Law takes its true place, not as the primitive divine revelation, which makes all the worship of the people one long apostasy and makes the prophets mere acolytes of the priests, but as the narrow mould in which religion was recast after the independent life of the nation had become extinct. In the Old Testament record we follow Israel's religion through its successive periods of growth, culmination, and decline; and from the New Testament we learn not only how the development of that religion involved the destruction of the Hebrew state, as the ripened seed must burst its envelope, but how, even as the seed

itself "is not quickened except it die," it was from the grave of the national religion that a universal faith arose for all mankind. The religious starting-point of Israel has in it nothing novel or peculiar. All the sacred ordinances and forms of worship which gave expression to the religious ideas of the people are so closely paralleled by those of Moabites and Phœnicians that they rather seem to assimilate Israel's religion to those of the surrounding nations than to distinguish it from them; and the "theocratic constitution"—the acknowledgment of Jehovah as the national divinity, the supreme ruler in war and peace, the leader of Israel's armies, and the fountain of right and civil justice—this was a principle common to all contemporary peoples. What was peculiar to the early Israelite was not his religion but his religiousness, his intensity of religious feeling. Hence the revelation to Israel was given in no dogmatic form nor addressed to the speculative intellect. The development of the conception of Jehovah was determined on practical lines. An early naturalism, in part derived from ancestral traditions and in part adopted from the neighboring peoples (Josh. xxiv. 14 15), appears in such passages as Ps. xviii. 7–15, and in the stone and tree and calf worship afterward taken up into Jehovism since it could not be suppressed,—a process repeated by Christianity in relation to similarly stubborn pagan usages. But all association of Jehovah with the powers that work in nature dropped more and more into the background as the living God was sought in his definite dealings with his people which formed their actual experience. And as the tie that bound Jehovah to Israel was felt to be personal and close, it was ever more clearly apprehended as a relation founded in moral principles. Moral relations, however, have in themselves an universal character; and when this was fully realized by Amos, the founder of spiritual prophecy, Jehovah of Israel became for him the God of the universe.

At the outset the true distinction between Mosaism and all contemporary religions is found in the personal difference between Jehovah and the gods of the nations. The heathen gods have no personal character, nor any personal relations with their worshippers. They have indeed human characteristics, but character, in the sense of a fixed habit of will, of that which

maintains an individuality against all dividing forces, they do not possess. The gods remained always on the same ethical level with their people, and hence ethnic religions had no effect in developing character. Jehovah on the contrary showed throughout Israel's history which was ruled by his providence that he had a will and purpose of his own. All his dealings with the people were directed to lead them on to higher things than their natural character inclined them to. The influence of his revelation upon their national life was the personal influence of a holy character. Thus religion in Israel was a moral discipline and a growing spiritual enlightenment, and its advance is step by step with an increasing clearness of perception of the things which the divine character involves. Such a revelation, to which no other religion can offer any parallel, was only possible through an inspiration of the national mind, for "the natural man receiveth not the things of the spirit, because they are spiritually discerned." That inspiration is the special vocation of Israel. To look, however, for this high intuition of Jehovah's character as ruling the thought of the masses would be to expect too much from ordinary humanity. It is the complaint of the prophets that Israel does not "know Jehovah," and hence finds no insurmountable barrier between his worship and heathenism. Such knowledge was indeed too wonderful and excellent for the people to attain to, yet when the prophets enlarge on the spiritual character of Jehovah as governing all his relations with his people, this view is by no one treated as a novelty, but accepted as the very foundation of Israel's religion from the days of Moses; and this tacit acknowledgment that the prophetic teaching in its spirit and substance is not something now heard of for the first time shows that Jehovah's long training of the national conscience had not been without effect. Still this "gospel before Christ" called the people's thought to spiritual heights it had no strength to climb. On the whole the prophets confront the nation with an ideal to which it does not correspond. The practical outcome of the Deuteronomic reform is little more than the limiting of Jehovah-worship to Jerusalem and its abolition everywhere else; whence results a great increase of influence to the Zadokite priests of the capital, who now get rid of their rivals the priests

of the country districts. Then follows the hopeless struggle of Jeremiah, "the evening star of prophecy," against king, priests, and people, and the virtual defeat of the prophetic religion by the religion of the priesthood.

In the earliest times the functions of priest and prophet were not clearly discriminated, and often both were united in the same person. To the last there remained official prophets connected with the priesthood and the sanctuary; and in the conflict with Jeremiah they are found ranged on the side of the priests as partisans of the theory of salvation by ritual. Down to the time of Elijah the "law" of Jehovah—a body of precept and precedent concerning religious, moral, and social duty, derived from the principle of the Mosaic revelation that Jehovah is a God of righteousness—was the common charge of priests and prophets. But such a law united elements which could not thoroughly combine and which finally developed themselves as antagonistic principles. Was religious duty one with social morality, so that to do justly and love mercy were the true service of Jehovah; or was it of man's life a thing apart, and limited to the due performance of liturgical rites? This question divided the true prophets from the priests, as later it divided Protestants and Romanists, and henceforth there were two religions struggling for supremacy in Israel; the one maintaining an external relation to Jehovah through the formalism of a ceremonial worship, the other urging inward communion with him through personal righteousness and the consecration of the heart. During the eighth and seventh centuries, when the priestly power was but loosely organized and always held in check by the power of the king, the ideas of the prophets were able to maintain at least an equal contest with the ideas of the priesthood; but even then the current was setting in a direction to make hierocracy inevitable, and when the returned exiles settled in what was now the Persian province of Judæa, under the government of their high-priest, the crude simplicity of the early popular religion and the profound simplicity of the prophetic faith were alike superseded by the elaborated sacerdotalism set forth in Ezra's law-book, and the bold and able scribe found means through his alliance with the temporal power to settle the foundations of priestly despotism in solid and lasting

strength. It was not accomplished, however, without a final struggle. The prophets had not lived and labored without leaving behind them inheritors of their spirit, ready to dare all for the cause of spiritual freedom; and a non-conformist party declared itself which refused to bow beneath the yoke of the Law. But the stern, unsparing use of force could lead to but one result. The leaders of the opposition were proscribed and banished, hunted down and slain; the spirit of prophecy was quenched and its voice silenced; and the very thought of freedom died from the hearts of men. Israel definitely entered on the path which was to make it "the people of the Book," and the principles of Ezra gained a sway over all minds never to be broken and growing more tyrannous as the years went on. (Matt. v. 12, xxiii. 30, 31; Heb. xi. 35–38.)

It may be said that in its day the Law was an historic necessity; if so, it was a necessary evil. It may be that but for its provisions to utterly isolate its votaries from the "people of the land," the little colony of returned exiles would have been absorbed in the nations surrounding them as the Ten Tribes were absorbed and disappeared in their captivity; it may be that but for the ossified forms of Judaism no life of true religion could have been preserved. Then surely we owe the priesthood a great debt, since whatever the means they used, the people of Jehovah were kept alive until the old stock of Mosaism bloomed again in Christianity. Precisely the same debt we owe to the builders of mediæval ecclesiasticism; for, while in its essential principles their religion was absolutely opposed to the Gospel they professed, yet they held together during ages of darkness and violence the historic organization of Christianity whence the Gospel was to emerge again at the Reformation. It is a remark of Hallam's that during the middle ages "had religion been more pure it would have been less permanent, and Christianity has been preserved by means of its corruptions." This holds equally good of Judaism during the period from Ezra to Christ. But while we acknowledge the services we may recognize the faults of Roman and Levitical religion. In essential points these two are identical, for sacerdotalism is one thing in all times and lands; and if as Protestants we cannot look upon the papal system as a legitimate development of apostolic

Christianity, neither as Christians can we regard the Levitical system as a true advance from the religion of the prophets.

It is only as we thus understand the historic genesis and the inward nature of the priestly Law that we can at all appreciate the relation of Christ to the religion of his time. If the Levitical Law be indeed the divinely appointed system of religious life, then the thorough acceptance of that system from Ezra to Christ will be the attainment of Israel's righteousness and of the divine approbation. But in fact the teaching of Christ is in direct condemnation of its fundamental principles.

Our adoption of the views of the Rabbins, supplemented by a theory of typology, has blinded us to the prime fact of his career, the distinctly revolutionary attitude he assumed toward Judaism, or blinded us at least to its full significance, and now it needs a new and careful study of his life to make its meaning plain. "The attitude of Jesus toward the ecclesiastics colors his career more deeply than any other fact of it; so that to study Christ apart from it would be like studying Luther apart from Indulgences, or writing a life of Wilberforce with the Slavery Question left out. . . . On the threshold of our religious studies there is nothing we should give more heed to than that antagonism between our Lord and the priesthood of which the evangelists say so much. We should lend our minds thoroughly to it, and look searchingly at it in all its aspects, should question and cross-question it, pray over it, Jacob-like wrestle with it and refuse to let it go till we win from it its secret."[1] At every point Christ sets himself not only against rabbinical tradition, but against the whole theory of religion on which the system of the Law was founded. His own religious life is held entirely aloof from the Temple at Jerusalem. According to the synoptical tradition he never appears there but just before his death, and then not to offer sacrifice but to make a last appeal to the people whom the great feast gathered in the Temple courts; and when he declares, "I will destroy this Temple and rebuild it in three days," he has in mind the Jewish religion which he would destroy in order to re-create. He consistently disregards the law of the Sabbath, which Ezra had insisted on with such earnestness and enforced with such difficulty, and annuls its legal obli-

[1] Scotch Sermons (1880). Am. ed. pp. 269, 270.

gation by declaring its humanitarian ground: "The Sabbath was made for man, and not man for the Sabbath." In many utterances which may strike us as casual or limited to their particular occasion he repudiates in principle all ceremonial observances and attacks the essence of the piety of his day. When he requires of his followers a righteousness exceeding that of the scribes and Pharisees, we perceive that the difference between the two ideals he points to is one simply immeasurable and infinite. In his teaching there appears continually an irrepressible conflict between the fundamental law of Judaism and that of the kingdom of God. The Sermon on the Mount contains injunctions which are a complete reversal of the ethic and theology of the Law. "Be ye therefore perfect, even as your Father in heaven is perfect;" the Jew had a precept apparently quite similar: "Ye shall be holy, for I Jehovah your God am holy;" but when we compare this Levitical term, holiness, whose radical idea is distance or separateness, with the sublime revelation of the essential divinity of human nature which is given us in these wonderful words of Christ, we find again the gulf of infinite difference that divides the Gospel from the Law. "Love your enemies, that ye may be the children of your Father which is in heaven;" the Jewish religion insisted on religious hatred; uncompromising hostility to the enemies of Jehovah had been inculcated from the days of the Restoration as a part of religious duty, and had become so rooted in the depths of the national feeling that the Romans found the chief characteristic of the Jew in his "hatred of the human race." In the teaching of Jesus God is the Father of all mankind and counts the just and unjust equally his children. To him religion is the love of this heavenly Father, which carries with it the love of all our human brothers; not only our neighbor, the like-minded, the right-thinking and virtuous, but our enemy, the foreigner, the heretic, the sinner. "Pray for them which persecute you;" the disciple of Jesus must abandon the religion of his fathers if he were to pray for the Roman oppressor, the persecutor of his people and his faith. The Teacher acted on his own principles. He went first to the outcasts from the synagogues, the unclean, the publicans. He offered them his friendship, and all the armor in which these hardened and embittered hearts had encased themselves against

the scorn and loathing of the pious fell from them at the touch of his irresistible compassion. It was this more than aught else that drew upon him the indignation of the narrow-hearted votaries of legal righteousness. This teaching of free forgiveness, of God's wiping out the sin of the penitent—this spiritual idea of atonement without any relation to sacrifice, was rank blasphemy to the Levitical religionist, and the attack on Jesus opened which ended in a little while on Calvary. The Pharisees made no mistake. They saw plainly that the Nazarene threatened their whole system with overthrow, and they made haste to silence him before it should be too late. On his part Jesus as plainly perceived that any reform of Judaism was impossible, and to seek any compromise with it would be as futile as to patch old garments with new cloth or put new wine into old skins. Let one look deeper than the superficial commonplace that Christ's teaching is eminently original, let him enter into the heart and spirit of the Gospel, and its inherent contradiction of Judaism will appear. It will become plain that the God of Jesus is not the God of the Pentateuchal Law, and it will be no longer possible to regard that Law as the primer of religious truth divinely imparted to Israel.

Yet in the gospel history Jesus does not present himself as the originator of an absolutely new religion, but rather as coming to realize the noblest aspiration and endeavor of Israel's great past. To him the law of Ezra was not the law of Moses, and therefore he could say, I come not to destroy but to fulfil the law and the prophets. The true advance of the prophetic thought which ceased with Jeremiah lay in the abolition not merely of a heathenish ritual of sacrifice, but of the externality of all sacrificial worship; not merely in the abolition of local sanctuaries, but of the principle of locality, the idea of worship as a meeting or tryst with God at some appointed place. And so Christ comes not to offer sacrifice, but to do the will of God, and declares that neither on Gerizim nor Zion shall men worship the Father, but in spirit and in truth. Much more than a prophet he surely is, but he is that. He comes into the world the true successor of that long line of fearless preachers of spiritual righteousness and the Divine Fatherhood. He too encounters the hostility of priestly zealots, and falls a victim to the brute force

which is always the last argument of bigotry. We see then the historic tie that binds Christianity to the religion of Israel. The Gospel is derived from Mosaism at the highest point of its attainment. There is a direct line of development from Jeremiah's conception of the new covenant (Jer. xxxi. 31–34) to its fulfilment in Christ. The Law, as St. Paul expresses it (Rom. v. 20), "came in from one side," and is to be regarded as an interruption and arrest of the progress of revealed religion. Yet it can hardly surprise us that this truth was far from being clearly apprehended by the first Christians. So tenacious was the hold of legalism upon the Jewish mind that the destructive bearing of Christ's principles was but slowly and with difficulty realized among his disciples. In the view to be taken of the Law was the root of a deep dissension and a long conflict within the Christian community. The Synagogue of the Nazarenes, as the little church at Jerusalem was called, might be thought to hold peculiar or erroneous opinions, but on the whole its practice was too well conformed to the rule of orthodoxy to draw upon it the reprehension of the Pharisees. It was only when Stephen the "Grecian" began to preach the subversive doctrine of salvation apart from the Law that their fury was again aroused; but then not indiscriminately against the whole sect. Stephen's party, the Gentile-Christians, was driven from Judea; the Jewish-Christians under "James, Cephas, and John" remained undisturbed in Jerusalem. And when the great Apostle to the Gentiles carried his truer gospel throughout the Roman world, the long and bitter struggle of his life was fought not only against disciples of his old associates the Pharisees, but against the Judaizing Christians, "false brethren" of his new household. Nor did the conflict of Law and Gospel fully cease until the destruction of the Temple and of the Holy City made complete observance of the Law impossible. When she saw Jerusalem compassed with armies and trodden down of the Gentiles, the Church might indeed look up and lift up her head, for her redemption from legal bondage was drawing nigh. Of the Judaizing party some were now fully converted to the Gospel of Paul and of Christ; others, known henceforth as Ebionites, sank to the position of sectaries and heretics; and revealed religion passed at length defini-

tively beyond the bounds of Israel and went forth to revolutionize the world and plant the seeds of a new life in the mind of its leading races.

But even yet its steps were dogged by the influence of the Jewish Law. Historically the founder of Christian theology is Saul of Tarsus, and all its doctrinal subtleties which have perplexed so many generations and obscured the grand simplicities of Jesus, are traceable to the leaven of Judaism that still worked unconsciously in the mind of the converted Pharisee.

Such and so far-reaching are the issues involved in this single question as to the date of the Pentateuch. Many other questions remain of equal and greater moment, and it appears probable that their investigation will lead to a radical modification of current opinions regarding Bible history. It is this probability that inclines so many to look on the critical study of the Scriptures with misgiving and alarm. They dread the self-confident spirit of criticism, and to give it free rein seems to them an opening of the floodgates to a tide of unknown evils. It would be to loosen the hold of the Bible on the unquestioning reverence of Christendom; to unsettle men's minds, raising questions hard to answer, bringing to their knowledge doubtful points and difficulties it were better they were ignorant of, and leaving them to wander away from the safe old paths worn by the feet of so many Christian generations toward the morass of unbelief at the beck of the *ignis fatuus* of rationalism. It must be owned that this apprehensiveness is at least not unnatural; but even were it granted that the free study of the Bible is fraught with real danger, it would not follow that such study should be fettered. What is there in life without its danger? The highest human faculty, our moral freedom in this world of temptation, is our most dangerous possession. We may say that Biblical criticism, like matrimony, "is not by any to be entered into unadvisedly or lightly, but reverently, discreetly, soberly, and in the fear of God;" but all the unhappy marriages do not make celibacy a duty, nor can any conjectural disasters make criticism a crime. In this matter we must accept the Protestant principle of free thought, or else the Roman principle of authority. There is no possible middle ground between

them, and the failure of the reformed communions to remain true to their own principle delivered personal faith again into the hands of ecclesiastical tyranny. The Decrees of Trent declared that the interpretation of Scripture must be conformed to the tenets of Holy Church and the unanimous consent of the Fathers. The Reformers on the contrary affirmed the right of Private Judgment to determine the sense of doubtful or disputed passages. They did not mean that one man's judgment is as good as another's and that every reader may interpret Scripture to suit himself. They meant that all questions arising in the study of Scripture must be decided by argument and not by dogmatism. In other words, the student can acknowledge no authority over reason, but only the authority of reason,—no extrinsic authority of ecclesiastical law suppressing mental activity, but only the inherent authority of rational principles approving itself to the individual mind. To take this position was to bring the Reformation into conscious alliance with the New Learning which was overspreading Europe at the time. Everywhere Christian scholars, inspired with an independent love of truth and a deep interest in the Bible as a living book, were eager to direct to the study of the Scriptures the newly awakened spirit of critical inquiry and the newly discovered methods of critical research. They refused to be bound by the Vulgate, which the Church pronounced of final authority, and went back to the original Hebrew and Greek, reading the sacred writings in the light of the best scholarship of the time, guided only by the impartial laws of all genuine science. With this appeal to Scripture the great movement began. Its leaders confronted the Pope with this Bible which they had studied for themselves, insisting on their right to interpret it like any other book agreeably to right reason and the mind and intent of the writers. They assailed the dogmatism of the schools with learning and logic, and sought to simplify the necessary creed by placing it on a plainly scriptural foundation. Unhappily the alliance of religious life and religious thought was only temporary. The rational, or rationalistic, principle of Private Judgment, while always adhered to in theory was soon abandoned in practice, and the progress of free inquiry abruptly checked when it was scarcely more than well begun. For the contro-

versy with Rome and their relations with civil governments imposed an exacting demand upon the Protestant communions to give an account of themselves, of their theological and ecclesiastical principles, of the doctrines they taught; and in the effort to meet this demand the Reformation passed into its second, or dogmatic, stage. Within thirty years there appeared no less than twenty different Confessions of faith, aiming to set forth a definite system of truth in opposition to a definite system of error. They were all professedly drawn from Scripture. To the question By what authority doest thou these things? Protestantism replied, By authority of the Word of God. When the men of dogma had pushed the scholars aside and come to the front the theory was that Protestant doctrine rested in no degree upon human reason, but solely upon the written word. Yet no theory was ever more opposed to facts. The men who shaped the confessional theology never approached Scripture with the free unbiassed minds of the earlier critics, but always under the influence of dogmatic prepossessions. They read their doctrines into Scripture and then read them out of it. The system became the measure of the Word of God, and not the Word of God the measure of the system. In theory the Confessions only possessed authority in so far as they truly represented scriptural doctrine, and consequently they were always subject to revision as the advance of learning should throw fresh light on biblical study and give a closer grasp of truth. But tho in three centuries that advance has been considerable, no Protestant Confession has ever been formally revised. To the Protestant mind dogma became identified with Scripture; it was invested with all the binding sacredness of revelation, and hence became incapable of essential change. Scholars were warned against approaching Scripture save through the medium of dogmatic conclusions already reached; and the fate of Servetus showed that Protestantism could hunt down the rationalist with all the ruthless severity of Rome. Thus religious thought had only changed masters. When it was held that Scripture was to be interpreted according to a dogmatic formulary and the interpretation declared and enforced by a council, the Protestant had evidently returned to place himself under that rule of an infallible teaching Church against which he had revolted. Hence the

necessity for that new revolt within the reformed communion, which found a leader in Arminius. The Remonstrants complained that all religious opinion was so controlled by the Confessions that "men, waiving and undervaluing the sacred Scriptures, appealed to them as unexceptionable rules, and he that swerved but a finger's breadth from them, tho moved thereto by reverence for Scripture itself, was without any further question condemned of heresy. Thus hath the authority of Scripture been more and more weakened, until at length it has fallen away and been transferred to these human formularies as more perfect." It appears indeed that while orthodox Protestantism has been reproached for its Bibliolatry, its real offence was rather an idolatry of the human faculty of creed-making. It was the rationalist of the Reformation and not the dogmatist who showed true reverence for the Bible. It is plain that the authority of Scripture, however nominally recognized, cannot be practically maintained in the face of any dogmatic declaration which is allowed to settle its meaning. If any interpreter whatever intervene between the reader and the Book—be it an *Ecclesia Docens*, a patristic consensus, a rule of faith, or a current orthodoxy—that interpreter usurps the authority of Scripture. It is no longer the text of Scripture but this self-authorized expositor that becomes the Christian's teacher. Whence it appears that the actual authority of Scripture wholly depends on the allowance of Private Judgment, and the demand for a free Bible was an expression of undivided loyalty to that supreme authority. The principles of the Arminians failed to gain control of the reformed churches, and they were driven to form another sect of a distracted Christendom; but here a refuge was offered to burdened minds which had not lost the sense of freedom, and here the original Protestant spirit of free inquiry survived. Its presence may be traced in all the fresh and vigorous thought of after-times, notably in the rational school of English churchmen; and it appears again to-day in the general revival of biblical study in the countries where confessional theology had stifled and suppressed it—Holland, Germany, Switzerland and Protestant France, and now at length in Scotland.

It is the aim of modern scholars to return to the earlier and

better day of Protestantism and take up the work then beugn. They seek to do for our day what the Reformation critics did for theirs. The principles of the Reformation demand a systematic study of Scripture upon lines of research which were not open to the scholars of that time. We bring to our Bible study minds enriched by the acquirement and matured by the training of the past three centuries. Think, for example, what immense service has been rendered the student by the discovery of the Assyrian Inscriptions. We can throw upon the subject the light of modern scholarship in every field of cognate study —the study of language, of human races, of ancient civilization, of social growth, of mythology, of literature, of comparative religion; above all of history, in its widest range and minutest bearing. It is our duty to seek by every aid the fullest meaning of our sacred books; to interpret them historically by the scientific method of right reason and intellectual honesty; to follow that principle of induction which has been found the key of modern knowledge, because it discards all preconception and builds on realities. Such a biblical science, making its way slowly but steadily to sure results, would best show how highly we value and how truly we venerate the written word. Indeed it is just because we revere the Bible, because we believe in it, that we cannot be afraid to study it. If it be of God, men cannot overthrow it. If it be divinely true, it is able to take care of itself, to stand any test of the freest and most searching criticism. The timidity of some may seek to evade or forbid that quest of personal insight which is the birthright of the intellect, but the Bible itself rebukes them in the words of the Master: "Why are ye so fearful? how is it that ye have no faith?" If men can be thrown into panic terror by an unorthodox critic, it is because their hold on Christian truth is so uncertain and so tremulous. When we are told that a scientific study of the Bible will unsettle men's minds, disturb their faith, and rob them of their peace, it seems pertinent to ask why will it? why should it? and whose fault is it if it does? Does it lie in the power of the veriest Vandal among critics to destroy one atom of eternal truth? Can Theism really be exploded by the unearthing of some new fossil, or the divinity of Christ endangered by the discovery of another uncial manuscript? If we believe in

the revealed religion we know that nothing really can be taken from us but our own mistaken views. But why is it that people talk about "destructive" criticism as if the critic's sole object were to convince men that the historic record is untrustworthy? The critic's work is not to destroy, but to construct. To him an ancient book is a fragment of ancient life, and bears the stamp of the historic circumstances which produced it; to understand it aright he puts himself back in the age in which it was written; he strives to enter into the writer's thoughts and to interpret them as part of the life of the thinker and of his time. In doing this the only thing in danger of destruction is the ignorance or error to which many so blindly cling. Now it is quite true that the critic should avoid giving needless offence to the conscientious narrowness of an unenlightened faith, should show all thoughtful consideration for the honest prejudice he may unhappily startle or pain. But when narrow prejudice, however conscientious, attempts to prohibit the free study of the Bible and to prosecute its students, it becomes our first duty to prevent the Christian church from falling under a control which would bring it into general contempt and destroy all its influence for good among educated men. The final result of the recent bitter and violent attacks upon Prof. Smith and Dr. Newton make it sufficiently evident, however, that such a disaster is not seriously to be apprehended. The rôle of a Bernard at Sens has become a difficult one to play. The gags and fetters of mediæval intolerance have a strangely rusty and antiquated look when brought out in modern daylight. They who would lay an ecclesiastical interdict upon free thought and free speech are struggling hopelessly against the strongest force that moves our land and time, and any barrier set up to check it will assuredly be broken down and swept away. The futility of prosecution for opinion is largely owing to general perception of its intrinsic foolishness. The questions raised by modern criticism are simply questions of fact. It is idle to treat them as questions of feeling to be determined by one's prepossessions. It is idle to treat them as merely shocking to the religious sense. They cannot be disposed of by anathema. They are questions of fact. They demand thorough and dispassionate investigation. They can only be decided, as

other questions of science and scholarship are decided, on grounds of reason and by weight of argument. Ejection from a professorship, deposition from the ministry, hysterical vituperation, reckless attacks on personal character, have simply no bearing whatever upon the solution of such questions as the date of the Pentateuch or the authorship of the fourth gospel. Any ecclesiastical body which meets the intelligent questioning of received opinions by its forcible suppression will deservedly lose the confidence of the community, for the inference is inevitable that those who are driven to silence their intellectual opponents feel themselves incapable of answering their arguments. It is plain that biblical science, like every other, must advance toward the widest and deepest knowledge it is possible to attain, and that a gradual popularization of its general results will accompany the work of original research. It cannot be doubted that already a strong public interest in the subject is aroused. In Scotland there was an average attendance of eighteen hundred upon Prof. Smith's lectures, tho most of them were dry in subject-matter and all demanded the close attention of the audience; and in this country publishers who sell to the million have deemed it worth while to bring out twenty-cent editions of Prof. Smith's and Dr. Newton's books. I cannot but regard this popular demand for what Dr. Newton calls "the real Bible" as a healthy and hopeful sign of the times. Prof. Smith remarks: "The great value of historical criticism is that it makes the Old Testament more real to us. Christianity can never separate itself from its historic basis on the religion of Israel, and no one to whom Christianity is a reality can safely acquiesce in an unreal conception of the Old Testament history. . . . In the interests of religion as well as of sound knowledge it is of the highest importance that everything which scholarship has to tell about the Old and New Testaments should be plainly and fully set before the intelligent Bible reader. . . . The more closely our study fulfils the demands of historic scholarship, the more fully will it correspond with our religious needs." Dr. Newton shares these convictions, and his book is laid on these lines. But while all the "apologetic" utterances of Prof. Smith seem aimed exclusively at the upholders of traditional orthodoxy, Dr. Newton

has equally in mind the radicals or rationalists among his hearers who are in danger of drifting away from all religious convictions—a class which he, so far as I know alone of Christian ministers, has succeeded in gathering within the walls of a church. He says in his preface: "These sermons were meant for that large and rapidly growing body of men who can no longer hold the traditional view of the Bible, but who yet realize that within this view there is a real and profound truth; a truth which we all need, if haply we can get it out from its archaic form without destroying its life, and can clothe it anew in a shape that we can intelligently grasp and sincerely hold. To such alone would I speak in these pages, to help them hold the substance of their fathers' faith." This shows the writer's perception of the one thing needful to be done in this day of religious transition. The simplicity, freshness, and vigor of the book will make it in the highest degree helpful to all earnest men who desire to read the Bible more intelligently, and its deeply reverent spirit will teach a wisdom better than all knowledge; but its chief value lies in the reconstructive purpose indicated in the above passage. It will help to save the religion of the Bible from eclipse. For it shows on the one hand the narrowness and poverty of the old bibliolatrous conception and as a consequence the futility of all Ingersollite attacks upon this Bible in buckram: for which scandal the traditionalists have only themselves to thank; and on the other hand it points to that scholarly and philosophic appreciation of the Hebrew Scriptures which finds in them a record of the divine revelation given through inspiration of the Hebrew consciousness.

This indeed is the end and outcome of a scientific study, that it demonstrates the objective reality of Israel's faith. It is received among Christians that the God of Israel's worship is one with the All-Father whom the Gospel declares. In the miraculous interferences, in the fulfilment of inspired predictions, in the marvellous episodes and designed coincidences recorded in Israel's history they find attestation of their belief that the hand of the Lord was with his chosen people. This teaching has been commended to the faith of its hearers; some have believed and some have doubted. Of the latter the more thoughtful have sought to gain a broader view. Every race of

men, they say, is a chosen people. Every nation known to history has or had its special vocation, and in that is the ground of its existence. The Greek, born with the love of knowledge and of beauty, was called to instruct mankind in philosophy and art; the Roman, gifted with a reverence for justice and a genius for administration, was called to develop in his institutions the principles of law and government; and the Hebrew was called to be the religious teacher of the world, for his privilege was a faculty of spiritual insight, akin to the Greek's æsthetic sense, which made his vision of the Divine another than that of the Greek who peopled heaven with human passions, or of the Roman who sacrificed to ethical abstractions. Such suggestions have their value, yet they are apt to be seriously misleading. The implication that Israel's religion differs in degree but not in kind from others, that it is the best of all but not unique among religions, is a failure to apprehend its true character. Other religions at the best are a product of the religious sentiment; they are a human yearning to seek some Divine One, if haply they may feel after him and find him; they are schemes to bridge the gulf between man and the vague Infinite; attempts to ascend into heaven to bring down God from above. Such religions are to be esteemed in proportion to the spiritual insight, the depth of feeling and of thoughtfulness their creed and cultus evince. If this fairly describes a religion, we may say that true Mosaism is not a religion at all. The faith in Jehovah cannot be classed with ethnic religions as a spontaneous growth of poetic imagination or of moral intuition. It is no human product. Other religions are makers of their gods, but God is the maker of Israel's religion. They are an aspiration that goes up from earth; this is a communication that comes from heaven. They are only concerned with the right relation of man to God; this starts with the relation of God to man. They begin in human longing; this begins with divine promise. Israel does not seek God, for God has first sought him and "called his son out of Egypt." This people has no "religious genius," like the Greek's for art. Their one gift is impressionability, receptiveness, responsiveness to the Divine teaching and training. They tell us that if the heathen have no knowledge of Jehovah's laws, it is because he hath not dealt with any

nation as he deals with Israel. The life of the people is an open page of the world's history, and its mind is mirrored in its literature. It is plainly to be seen that the mind of Israel grew under God's continuous education, that their history is his work, and their character the product of his influence. Not their belief in a living God, but the living God himself is the postulate of their national existence. They are his witnesses, and without him the people's life becomes inexplicable.

A scientific criticism establishes this result. It shows God in Israel's history not in occasional supernaturalism, but in the continuity of the nation's actual experience; not here and there in fleeting glimpses, but everywhere in broad sunlight, the source and life of the whole. And in this it makes no appeal to faith, nor argues from probabilities; it bases its conclusion on grounds of reason, and leaves it there, a scientific truth, independent of opinion and indifferent to assault, until the world shall reach it and receive it.

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